

Sheriff David N Mackie
Chair
Hearings System Working Group

Sue Webber, MSP,
Convener,
Education, Children & Young People Committee,
The Scottish Parliament,
Edinburgh,
EH99 1SP

20 November 2023

Dear Ms Webber,

I have been following with some interest the workings of the Education, Children and Young People Committee in relation to its scrutiny of the Children (Care and Justice) Bill and, in particular, the evidence session on 2 November 2023 with the Minister for Children, Young People and Keeping The Promise, Ms Don.

The questioning by members led the Minister to emphasise that the passage of the Bill on the one hand, and consideration of the Hearings for Children Report of the Hearings System Working Group and implementation of The Promise on the other were entirely separate matters. In particular, the Minister indicated in response to a question about the recommendation in the report regarding salaried chairs of Children's Hearings that, whilst appreciating that there are conflicting views on what having salaried chairs and paid volunteers would lead to, she wanted to be clear that she held those issues quite independently from the Bill. She further indicated that she understood the thinking that the recommendations of the Report could help the Bill but was very careful about conflating the two which she considered to be two very separate issues.

While in terms of Parliamentary process the Bill is separate from the recommendations of the Report and wider delivery of The Promise, including such legislation as may follow from those, its content is in many respects inextricably linked to them. The Working Group was conscious throughout its deliberations that several significant policy developments were currently happening in Scotland that might impact on the work of the Children's Hearings System redesign arising from the Bill but also the refresh of Getting it Right for Every Child (GIRFEC), the United Nations Convention on the Rights of the Child (UNCRC) (Incorporation) (Scotland) Bill, the implementation of the National Child Protection Guidance (2021), commitment to ensuring statutory child poverty targets by 2030, commitment to a nationwide approach to Bairns' Hoose development and reform of secure care aligned with ending the placement of 16 and 17 year olds in YOI's. Strategies in relation to mental health,

suicide, self-harm and trauma are under review as are commitments relating to foster care and kinship care allowances. In the field of social work consideration is in hand in relation to an advanced practice framework for social workers, support for newly qualified social workers and a trauma training programme for frontline social workers. The Working Group recognised, furthermore, the development of the Youth Justice Vision and Priorities and the development of a £500m Whole Family Wellbeing Fund which has begun to fund local activity to prioritise early help and support for families. Just as these policy developments affect the workings and recommendations of the Hearings System Working Group the corollary is true that they impact on each other and the Children (Care and Justice) (Scotland) Bill.

I respectfully consider that, far from keeping these issues separate in the consideration of relevant legislation including the current Bill, it is important to maintain an awareness of the interplay of the live policy developments in this sector and to ensure, on the one hand, the avoidance of unnecessary duplication or confusion from provisions, but on the other that the opportunities to develop and advance different but connected policies are not lost.

I take this opportunity of explaining also that the recommendation in respect of salaried Chairs emerged as a response to the desire to achieve continuity and consistency of decision-making by Hearings. The voice that resonated most in our deliberations was that of young, care experienced people. One of the main concerns they raised, that was captured by the Independent Care Review and is reflected in The Promise report was a desire not to have to repeat their story to a new group of Panel Members they did not know on every occasion, especially when those people would be making important decisions in their lives. This matched a growing recognition that continuity of decision-making in matters affecting children and families was desirable in sustaining consistency and quality of decision-making. The Working Group was thus directed towards recognising that these concerns would be met by creating in at least the Chair a role in which that person could be present and engaged, to effectively carry a caseload and that in turn pointed to a salaried role. Alongside the importance of continuity of decision-making the Working Group recognised the importance of reinforcing the notion of the Hearing as an inquisitorial process in order to ensure that a relational, child-centred and rights based approach could be taken in proceedings. These key elements played an important role in guiding the Working Group to its conclusions and recommendations.

I offer this intervention with the aim of assisting the Committee in its deliberations and if there is any way in which I can assist further by expanding on the points raised I will be very happy to do so.

Kind regards,



Sheriff David N Mackie,
Chair,
Hearings System Working Group