

# Youth Justice Improvement Board

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## Minute of Meeting

15 September 2021

- Attendees: Lesley Sheppard, SG (Chair)  
Jenny Ward, SG (Minutes)  
Tom McNamara, SG  
Liz Murdoch, SG  
Neil Hunter, SCRA  
Alistair Hogg, SCRA  
Lynsey Smith, Includem  
Elliot Jackson, Children's Hearings Scotland  
Paul Carberry, Action for Children  
Fiona Dyer, CYCJ (left 11am to give evidence at Justice committee)  
Colin Convery, Police Scotland (left 11am to give evidence at Justice committee)  
David Doris, SG Community Justice (attending in place of Cat Dalrymple)  
Anthony McGeehan, COPFS  
John Trainer, Social Work Scotland  
Gill Robinson, SPS  
Bill Fitzpatrick, Community Justice Scotland  
Jillian Gibson, COSLA
- Apologies: Cat Dalrymple, SG Community Justice  
Grace Fletcher, NYJAG  
Janine McCullough, Education Scotland  
Brenda Stewart, HMP YOI Polmont  
George Ferguson, HMP YOI Polmont  
Eddie Follan, COSLA  
Rod Finan, SG OCSWA/GIRFEC  
Ross McLaughlin, SOLACE

### 1. Welcome and Introduction

**Lesley** welcomed attendees and advised members that the two substantive agenda items of the meeting would be a discussion around advancing children's rights, and the closure report from the cross-system group on 16/17 year olds.

#### **Programme for Government (PfG)**

PfG was published on 7 September. Much of work of the Board will align with the PfG commitment to developing a child-friendly justice system. It is hoped that attendees recognise the YJIB agenda within the PfG.

The PfG states the Government's commitment to keeping the Promise, and announces a new year 2 Children's Care and Justice Bill, which is critical to achieving our ambitions in the youth justice domain. The 2022 Bill (the scope and content of which is still under debate ) will reform child care and justice law with

respect to children and families' services, secure care, the children's hearings system, victims' services and the interface with the criminal justice system. This will include extending the CHS to all 16 and 17 year olds, extending victims' rights and reforming secure care. A Bill team is currently being formed to take this much needed work forward over the next year.

### **Scottish Sentencing Council Guidelines Consultation**

The Sentencing Council published the consultation report, analysis and consultation responses on its guideline on sentencing of young people on 15 September. The guideline itself will go to the High Court for approval. It is expected that the guideline will direct the court to take into account certain factors in the exercise of its discretion in sentencing a young person, defined as a person under the age of 25.

<https://www.scottishsentencingcouncil.org.uk/media/2142/final-ssc-report-on-sentencing-young-people-public-consultation.pdf>

### **2. Minutes of the previous (May) meeting**

The minutes were agreed and no outstanding actions from the previous meeting in May were recorded.

### **3. Advancing Children's Rights**

**Lesley** provided an update on UNCRC incorporation. There is no timeframe on a response from the Supreme Court in relation to the challenge from the UK Government. The Supreme Court is in recess until October and UNCRC may not necessarily be top of the list when it recommences.

From SG perspective, we continue to press on and drive forward with implementation. A Vision and Improvement Board has been established and work is ongoing around introductory guidance.

Lesley shared slides with the group around UNCRC incorporation, looking at the 3-year implementation plan and the proposed workstreams (Children's Rights Resolution, Scottish Government Leadership for Children's Rights, Empowered children and Young People who can claim their rights, and Embedding Children's rights in public services).

Attendees were invited to share their thoughts on their own organisations priorities around advancing children's rights.

**SCRA:** Knowing whether the highlighted priorities highlighted are the right ones may take some time. From the perspective of the Children's Hearings System, there is such an interdependency of organisations that there is a collective challenge to ensure all aspects of the system work together. CHS has been subject to decades of challenge by higher courts and is essentially rights-compliant. CHS needs to ensure it moves from being technically compliant to meaningfully compliant. There have been calls to action from Our Hearings Our Voice (OHOV), resulting in the creation of safe comfortable environments for children and families. There is a move towards improved communication - from written to animated/illustrated information, making information unique to each young person. There have been conflicting calls to make hearings short, and conversely to extend over two days. SCRA is looking

to ensure meaningful compliance with legislation, making sure it is meeting the needs of young people, empathising with and understanding them. This has been reflected in workforce selection and training.

**Police Scotland:** Police Scotland are developing their own CRWIA (Children's Rights and Wellbeing Impact Assessment), based on the SG model, which will help to support children's rights. The issue of how to engage with young people throughout this process frequently comes up. A more efficient and joined up approach is needed, as well as system and multi-agency change. It was suggested that YJIB might be able to support the development of a youth engagement group to facilitate better youth engagement. We will need to increase and expand level of engagement in a way that is productive.

**SPS:** SPS have developed a steering group to look at the implications of the UNCRC for two separate groups of children: children affected by parents' imprisonment, and children in custody. They have also developed a work plan. Briefing has been prepared for all SPS staff on UNCRC in relation to the above two groups. SPS colleagues are looking at specific elements which are most pressing, such as restraint (non-pain inducing); working with experts across the UK for the safe restraint of young people where necessary. Discussions around this are at quite advanced stages but this will take a while to fully roll out. SPS have also developed a new vision for young people in custody which attempts to address other elements of UNCRC directly, this was published a couple of months ago.

**COPFS:** COPFS is currently assessing relevant policies and processes in relation to UNCRC compatibility. Even where those policies and process already reference UNCRC, the assessment process is lengthy, with time required to assess the policy/process against each relevant article to complete audit trail. There is no ready-made group of young people to call on for engagement. There are existing groups, but those have finite capacity which is already stretched. Additional asks may be too much for existing groups. Agree with others that there is a collective need to test policies and processes with young people, to receive young people's perspectives and the potential value of a collective resource to do so.

**SWS:** Local authorities are looking at how to be UNCRC compliant. Children's Rights Officers were established within LAs some years ago, some have been contracted out to other organisations such as Who Cares? Scotland. Groups have been set up which look at whether services are child-friendly and engage with young people. Champions Boards also engage with young people. Planning decisions should be taken into consideration – for example, are streets child-friendly? Are they safe for children and women? There is a need to think strategically about how we engage with young people, and identify priorities, such as where are people most vulnerable.

**COSLA:** There have been several papers on UNCRC which have been discussed at COSLA's CYP Board. Conversations have centred around what the implications are across services/resources and workforce. COSLA are also looking at the participation of children and young people in its decision-making - not just in its own Board but across the organisation - and what would be the appropriate, and most meaningful, mechanism for this.

**Action for Children:** Action for Children have run a series of events such as webinars for staff, Q&A sessions – “what UNCRC means for me”. They have

undertaken a campaign of awareness around UNCRC, ensuring partners, such as schools, are aware and on board. Happy to partner with one of the big organisations (e.g. CHS/SCRA) in engaging with young people and making sure that children and young people's views are central.

**SCRA:** Important to note that there has been lots of discussion with partners around UNCRC preparation and advancing children's rights which hasn't stalled because of the Supreme Court intervention; this is a matter of good practice. We must consider whether there is anything missing: a 3-4 year embedding or changing of culture will be required after the Act is passed, from the outset there will be a requirement to be compliant and there will be potential for challenge. We need to consider if there is a group/structure which poses the most likely challenge e.g. 16 and 17 year olds in CHS and whether there is a need for a group to consider such challenges.

**Fiona** agreed to prepare a paper on young people in court which could be brought back to the Board for discussion.

**Action: Fiona to prepare paper on young people in court for next YJIB meeting.**

It was agreed that a period of audit and self-assessment is required, identifying where the weak points might lie, together with consideration around engagement with young people.

Further it was noted that some of the key changes to be brought about through the UNCRC will take time to implement, with legislation being in force during some of that time.

#### **4. 16/17 Cross-System Group Update**

**Neil** provided an update on the work of the 16/17 cross-system group and gave a short presentation on the group's closure report and its recommendations for Scottish Government and partners.

The report is focussed on 4 themes: examination of data; assessment of current supports, services and interventions; current support and advice for victims; and understanding the profile, needs and backgrounds of those aged 16 and 17 who are in custody in YOIs.

Suggestions for change and improvement are mainly for SG as the lead but also important for buy in from partners. These include:

- Extend measures within the hearings system - protecting and supporting victims, information sharing and powers available to a hearing and improving the range of supports and interventions for this age group
- Invest in the children and families social work workforce
- Strengthen the duties of corporate parents
- Reviewing the capacity and status of the secure estate, including expanding alternatives to secure and support effective transitions.

The report shows that a collective effort is needed to try and get ahead of the curve in expanding the remit of CHS to 16 and 17 year olds and to prepare it for

the challenges that will come with those changes. Section two of the report covers high level themes and reflects the welfare-based approach of CHS. More work is required to establish who is referred to CHS and how we deliver in terms of decision-making and investigation. This is a fundamental issue as children who enter the CHS are deemed to be among the most at-risk children in country.

It was acknowledged that the report is missing data on under 18 referred on care and protection grounds.

The potential UNCRC challenge to CHS around 16/17 years olds is of concern, work is underway which looks at the risks of such challenges and what mitigations could be put into place.

The direction of travel is clear around taking an individualised approach to each young person, looking at transitions between childhood and adulthood which may impact, certain offences (e.g. sexual offences, road traffic offences). There is also complexity around interplay with the courts and hearings system, for example appeals process and the advisory role of the hearings system, and how to make this more dynamic to meet the challenges.

There are plans to review the current restrictions in CHS around protecting children and young people. There is also a need to protect and support victims. Further, there is a need for investment in resources and workforce. There is real discussion to be had about expansion and investment/resource-shifting. Developing a skilled and confident workforce able to provide the interventions needed for this vulnerable group is key. In terms of compulsory measures, more engagement and meaningful language is needed and a different discourse required.

We need to look at young people on remand and what that means for secure estate and planning/capacity. Creating trauma-informed, therapeutic environments for young people is important, as is looking at what 'secure' means. This is a complex area of work which will require lots of planning.

The final appendix of the report centres on challenges of removing 16 and 17 year olds from YOIs wherever possible and the implications for transforming the secure estate - supporting young people coming out of secure and ensuring a seamless transition for those young people. The report provides an agenda for the next phase and outlines those challenges.

Attendees were thanked for their ongoing participation and support in relation to the work of the cross-system group and the discussion was opened to offer reflections and initial perspectives on the report. The following observations were made:

Neil was thanked for his leadership of the group and bringing together the paper, and for encouraging frank debate among group members. There is a direct link between this work and questions posed by the paper with ACR. A few members of the cross-system group are also members of the ACR advisory group. This group is looking at the implications of raising ACR to age 14 at present; if ACR raised to 14 young people under that age would need an effective response. Many of the same issues identified by cross-system planning group are being raised by the ACR advisory group.

The group agreed that an extraordinary meeting of both boards should take place to look at the connections.

**Action: Jenny to speak to ACR colleagues to consider a joint meeting.**

Fiona advised that the post-graduate certificate in Children and Young People in Conflict with the Law opened on 14 September for registration, it is hoped that this will help with enhancing the skills of workforce. Other work underway across CYCJ includes developing a questionnaire for young people in Polmont, speaking to boys' social workers – key themes emerging around community alternatives. Sheriffs interviewed said it is really important to hear about community alternatives and that sometimes they themselves were not aware of these alternatives. We need to look at how we could present robust community alternatives to custody, to look at needs of young people and how the secure estate can be supported to manage that.

It was agreed that these were important points which could go some way to achieving our ambition to remove children from YOIs.

Community Justice Scotland currently has a project that is seeking to map community-based services in every local authority, and to make these available to sentencers and others. The purpose of this is to fill information gaps about what is available as a possible alternative to custody.

**Action: Bill to check whether the Community Justice Scotland project mapping community-based services addresses young people's services as well**

Paul highlighted that there are issues which affect both young people in the justice system as well as communities and victims – we need to ensure that we provide reassurance to communities and victims especially young victims. We need to link up with other strategies and connect with other policy areas which touch on youth justice, e.g. employability.

It was agreed that community and victim confidence is vital for progressing this work. The work of the Community Confidence sub-group of ACR Review Group has particular resonance.

Elliot explained that there is work taking place currently which is looking at the unpaid workforce in relation to the Promise. Volunteers are struggling with size, scale and complexity.

It was noted that there are some issues relating to how much confidence the general public have in our system. Local government working with 3<sup>rd</sup> sector would be very important.

Attendees were asked to offer any further comments in email to Liz and Tom by 22 September.

**Next steps:** The comments received will be taken in to consideration in advice to Ministers.

## **5. Youth Justice Vision and Action Plan Implementation**

Liz provided the group with a brief update on progress towards setting up implementation groups which will take forward the key priorities. This update was set out as item 5 on the agenda but formed part of the earlier discussion around advancing children's rights and UNCRC incorporation in agenda item 3.

Two groups are being set up initially: Children's Rights and Participation and Advancing WSA.

Alison Reid from Clan Childlaw has been approached to chair the Children's Rights and Participation Group. Colin Convery had previously spoken to Liz about participation with young people and Liz agreed to discuss this with the new Children's rights group, once established, around how to take this engagement forward.

The Advancing WSA group will be chaired by Neil Hunter and John Trainer.

It is still to be decided how the 16/17 work will be taken forward. Liz reassured members that this important work would not be ignored. This will be considered once the Bill team is in place to deliver the new Children's Care and Justice Bill.

As discussed under agenda item 3, colleagues agree with the value of a collective approach to engaging with children and young people as part of UNCRC implementation. SG colleagues will continue to reflect on the potential for this as part of the work of the UNCRC Implementation Board.

## **6. CHIP update**

The last Children's Hearings Improvement Partnership (CHIP) meeting took place on 5 August.

Tom advised that a new Hearings system working group has been set up under the Promise, and met for the first time on 6 September. This group is looking at the design and structure of the current system, and its interfaces with Family Support. More communication would emerge following the next meeting in early October.

## **7. AOB**

- **Jenny** spoke briefly to the Youth Justice Improvement Board web page which is in development. Attendees were advised that an e-mail would be issued with a link and password to the web page and members would be invited to offer comment by Wednesday, 22 September.
- It was agreed that the next meeting would pick up on discussions around the National Care Service (NCS). Attendees were asked to please take their time to respond to the consultation in advance of this.
- Attendees agreed to move the date of the next meeting forward from 7 December 2021 but where possible avoid COP26 dates (late October/early November) in order to discuss the NCS consultation.

**Action: Jenny to identify new date and circulate to members.**