

Youth Justice Improvement Board

Note of meeting

20 July 2020 10:00 – 11:30

Attendees: Bill Scott-Watson (Chair) (BSW)
Jenny Ward SG (Minutes) (JW)
Liz Murdoch, SG (LM)
Tom McNamara SG (TM)
Fiona Dyer, CYCJ (FD)
Kyrsten Buist, COPFS, on behalf of Anthony McGeehan (KB)
Cat Dalrymple, SG Community Justice (CD)
Colin Convery, Police Scotland on behalf of David Duncan (CC)
Neil Hunter, SCRA (NH)
Gill Robinson, SPS (GR)
Brenda Stewart, Governor, HMP YOI Polmont (BS)
Ranald McTaggart, NYJAG (RT)
Lynsey Smith, Includem (LS)
Janine McCullough, Education Scotland (JM)
Rod Finan, SG OCSWA/GIRFEC (RF)
Bill Fitzpatrick, Community Justice Scotland (BF)

Apologies: Paul Carberry, Action for Children
Anthony McGeehan, COPFS
Davie Duncan, Police Scotland
Eddie Follan, COSLA
Martin Dorchester, Includem
John Trainer, Social Work Scotland
Elliot Jackson, CHS
Lauren Sorrell SG
Elaine Walker, Scottish Court Service
Ross McLaughlin, SOLACE

1. Welcome and Apologies

1.1 BSW welcomed attendees and introductions took place.

1.2 The meeting in March was cancelled due to the COVID-19 pandemic but an update paper was circulated to members in May and had been attached again to the papers for this meeting for ease.

1.3 Members agreed the minutes from December in advance of this meeting. All actions from December have been completed.

2. Covid-19 Discussion/Impact on Organisations

2.1 BSW provided a brief summary of the current situation from Scottish Government and Children and Families Directorate perspective, explaining that this is new territory and a lot of changes have taken place over the past few months, with the introduction of emergency legislation and in particular with regards to the hearings process.

2.2 The following representatives were invited to give a brief update around the impact of COVID-19 on their respective organisations.

2.2.1 Neil Hunter, SCRA

NH explained that SCRA had shut down its hearing centres on 23 March and within the first few weeks were able to recommence some hearings virtually. Approximately 1400 hearings have been conducted in this manner, and the priority during this time has been for those on legal protections. A fully virtual model was operational by May.

The organisation has been working at 30% normal capacity, and is introducing phased hearings in Stirling and Glasgow. Referrals on care and protection grounds were down 30% but only down 25% on offence grounds. Throughout lockdown there has been a degree of unmet need which will likely be uncovered over the next few months.

In evaluation over half of those who responded thought they were able to maintain the quality of hearings, some felt it had improved.

There is now a prioritisation scheme in place and the organisation has made use of emergency legislation to aid in delivery of services. SCRA is working hard on recovery plans, and hearings centres are opening across the country. However not all hearing centres are able to fully support physical distancing due to their size. Our Hearings Our Voice (OHOV) has information available on a full consultation around what hearings should look like.

Action: SG to circulate the written update from NH.

2.2.2 Gill Robinson/Brenda Stewart, SPS/Polmont

BS explained that when lockdown commenced at the end of March there were just under 400 residents in Polmont, mainly young men and some adult women. Polmont changed to a one shift system focussing on basic care needs and daily routine, working to SG guidelines and minimising contact, and keeping strict timetables in place to keep everyone safe.

Daily business has been impacted; the courts have stopped but due to emergency legislation 31 residents (10 young women, 21 young men) were released.

Throughcare for those leaving Polmont, and reducing the impact of those mixing, was key. To assist in this, virtual visits were introduced which were well received.

Emergency legislation has also enabled the introduction of mobile phones.

Technology has greatly assisted and has helped partners keep in contact with young people.

Healthcare has been big issue, however staff have been able to attend to the mental health needs of residents due to a greater focus on controlling the pandemic and keeping everyone safe. There have been excellent examples of partnership working throughout. Consideration is now being given to how to reintroduce services safely.

RM asked whether virtual visits would continue in the future as he had seen benefits to these. **BS** confirmed that SPS would be continuing, however they need

to consider the legislation around this.

BSW added that there has been a lot of good practice during this time, which we want to capture.

2.2.3 Lynsey Smith, Includem

Staff were stopped from going out for face to face visits on 21 March. Some face to face contact was resumed outside after 4 weeks. The organisation experienced some issues around the status of staff due to being a third sector organisation and a lack of clarity around whether they are classed as key workers.

Throughout lockdown, digital tablets and mobile phones were provided, and the helpline was maintained to continue contact. Includem are now back up to full capacity and have reopened offices.

The response to the digital provision has been mixed; some young people and families did not have enough data, did not have the right devices or had devices which were faulty or broken. Funding has been provided for the purchase of internet packages to allow families to communicate during lockdown.

There have been concerns around the impact on services for young people and families, and there has been a reported increase in serious incidences, particularly in relation to mental health (the helpline was notified of 4 suicide attempts within the first 4 weeks). There has been an increased need to engage with young people during the day, compared to evening work which is what was delivered pre-COVID.

2.2.4 Kyrsten Buist, COPFS

Courts across the country came to a standstill at the start of lockdown; since then, the key priority has been to respond to this and mitigate the impact of Covid-19 on the justice system.

There was initially a decrease in the number of cases reported to COPFS, however since the end of April/May numbers have increased and are returning to normal levels.

During the early stages of lockdown, 10 courts remained open across the country to deal primarily with custody cases and other essential business. Virtual courts have since been set up and are being used largely for custodies and appeal hearings. Summary trials have also been conducted through the virtual court system, however, the number of trials conducted is relatively low. Work is ongoing with partner agencies to look at how to develop the virtual court system going forward.

COPFS are continuing to consider how to respond to the backlog of cases as they emerge from lockdown. The backlog is threefold: cases reported pre-lockdown, during lockdown and those cases that will continue to be reported as lockdown eases. The emergency legislation under the Coronavirus (Scotland) Act 2020, has put a number of temporary provisions in place, such as the extension of statutory timebars, to offer some assistance with responding to the backlog. There has been discussion about operating additional courts, including night courts and weekend courts, as a further measure to address the backlog. Two High court trials have been piloted, one with jurors socially distanced in the court building and the other with jurors in a remote building participating through video link.

A question was asked about the number of young people represented in the backlog and whether these young people would become a priority.

KB advised that she did not have the data to hand. The Lord Advocate and Chief Constable released a joint statement at the beginning of Covid-19, setting clear

priorities for the investigation and prosecution of crime during the pandemic, with a particular focus on cases where the accused is in custody and other essential business. COPFS always try to deal with priority cases first, including those cases which relate to young people.

NH expressed caution over the possibility of night courts and weekend courts, as this may not create capacity but rather stretch an existing resource.

2.2.5 Colin Convery, Police Scotland

Police Scotland experienced a high absence rate initially. Police IT systems caused difficulties however progress has been made in this area and staff are now able to access Microsoft Teams and Zoom. The vast majority of staff are working from home; office space has been taken over by those in critical roles. In terms of recent observed trends, incident demand is down, while there has been an increase in noise and nuisance complaints. Police Scotland anticipate some change to this as normality resumes. There have been significant reductions in youth offending, however the pandemic has drawn attention to concerns around the mental health of young people.

A community impact assessment has been undertaken, looking at how to engage with young people so they are aware of the impact of COVID-19. Joint statements around missing people and EEI have also been produced. The change in age for 16/17 year olds who were receiving fixed penalty notices has been welcomed recorded police warnings will be used as an alternative. Black Lives Matter is a further key area of focus as we enter the recovery phase. There is a pilot project currently underway in Dumfries and Galloway around children and young people in care, Police Scotland are looking to roll out the pilot in Glasgow and then expand across the country.

2.2.6 Ranald McTaggart Social Work

RT advised that the NYJAG exec group has continued to meet. NYJAG has also observed a reduction in offending. There has been an impact on the implementation of EEI, some Local Authorities have stopped all together and others are doing things differently. There has also been a spike in mental health issues and how LAs respond to this has been a challenge across the board. Criminal exploitation has emerged as a particular concern during lockdown, with more Local Authorities raising this as an issue with the Group.

There have been challenges in delivering court support. Delays in solemn cases for under 18s has a big impact on the young person and also the victim's wellbeing. NYJAG welcomes a prioritisation of under 18s as court business resumes.

3. Independent Care Review

3.1 BSW provided an update around the work of the Care Review:

The Independent Care Review published its final report and conclusions on 5 February 2020. This had been a long time coming and the product of meticulous work. All those in power have signed up to The Promise providing a commitment to delivering on the findings.

As a result of the impact of Covid-19 the Review was granted an extension to conclude its work and closed on 30 June 2020.

The Review published its [Evidence Framework](#), documenting all the evidence and research collated and analysed throughout the Review, on 8 July.

On 21 May 2020 the DFM announced to Parliament the appointment of Fiona Duncan as Chair of the Care Promise Oversight Board.

SG Care Review Sponsorship team is working closely with Fiona to facilitate delivery of The Promise. The Promise implementation team that is currently being established will replace the Care Review moving forward. Due to the ongoing COVID-19 situation, SG colleagues are working with Fiona to set up a temporary structure and location arrangements within SG while we continue to work through longer term options.

The COVID-19 emergency response has undoubtedly impacted upon our ability and that of our key partners to make as much progress as we would have wished to in our response in the short term. However, we have been working hard to ensure that the principles of The Promise are reflected in our response to the COVID-19 pandemic, including in practice guidance and policies underpinning emergency legislation.

3.2 BSW opened up the discussion to the group and the following observations were made:

It was noted that NYJAG have not yet had a full discussion around the Care Review and The Promise but welcome a rights-based approach, as seen in Claire Lightowler's paper. Areas of interest are the promotion of youth and secure care, and better access to secure care and alternative options for those in Polmont. The work of the Care Review highlights the needs of care leavers in the justice system, and partners need time to reflect on this.

The Review brings implications for not just our own work but those we work with. JM highlighted the work required in order for the education community and workforce to understand the needs and rights of care-experienced young people, especially as young people spend a significant part of their lives in education. The education community could play a bigger role in helping to reduce the criminalisation of care-experienced young people.

CYCJ welcomes The Promise. The principles of The Promise and the Review reflect much of the work that CYCJ have been working towards for a number of years, it also complements Claire Lightowler's *Rights Respecting* paper. Implementing The Promise will be challenging; organisations will need to collaborate effectively and will need to do things differently.

SPS have given a commitment to supporting the work of the Care Review. Senior managers at SPS have been briefed on The Promise and are considering how to take this forward.

LS advised caution when considering participation of young people – some young people participate more than others, others are less engaged (for example, young people who are looked after at home). Education does indeed play a large part, but young people need to be in education in order to benefit. We need to capture those voices. **BSW** advised that the Care Promise Oversight Board will include care-experienced young people.

It was noted that there is work already underway which aligns with work of the Care Review: ACR, 16/17 yr olds, UNCRC, and the secure care standards. We need to ensure that we deliver on expectations in relation to this work. There are implications around workforce training, and we must re-establish what is meant by care experience and remind ourselves of the principles of the Kilbrandon Report.

4. End of Youth Justice Strategy – next steps

4.1 LM gave a brief update on current and on-going work around development of the next vision and action plan explaining that although the Strategy came to an end in June the work does not just come to a stop. There has been lots of great work delivered over the past 5 years through the 3 implementation groups which we do not want to lose. It may be that some of the current implementation groups will merge in to other groups under the new vision and action plan once published, but it is clear that Advancing WSA needs to continue.

A messaging paper will be issued next month which outlines this messaging, along with some of the work which has been delivered over the past few years and some of the pieces of work which need to be finalised such as the EEI core elements document, the outcomes tool, Improving Life Chances common factors paper and outlining the next steps with the vision and action plan. We will ensure that members have an opportunity to comment on this before issue.

The vision and action plan will be based on the findings within the Rights respecting paper and the Care Review Promises but it also needs to be based on evidence from stakeholders and young people. We were due to hold engagement events in April and May but due to covid these were cancelled. In order to ensure that we capture views we produced a survey for response by external partners by the end of August. Members were encouraged to respond to the qualtrix survey.

LM explained that we are also looking to gather views from young people. Initial discussions have taken place with Ruth Kerracher who supports the Youth Just Us group who is helping us look at how we do this in a co-produced way. We will be looking to gather views through a variety of methods. If we are doing this engagement we hope to also include engagement around ACR and 16/17 year olds in the hearings system. We have already received views from Youth Parliament. 287 young people commented and the results showed the areas they felt we needed to focus on were mental health and children's rights closely followed by support for victims. Whilst doing this engagement we asked about 16/17 year olds in the hearings system and 226 young people said 16 and 17 years olds should be considered through the hearings system.

The consultation on 16/17 year olds in the hearings system is running until 7 October. 111 responses have been received so far. An analysis will be produced on the responses and it is likely that this will feature within the vision and action plan.

5. UNCRC Incorporation

5.1 Due to timescales a brief update on incorporation of UNCRC into Scots Law and progress around Bill work was provided.

Last summer, SG held a consultation to ask what the people of Scotland thought was the best way to incorporate the convention into domestic law. It was clear from the consultation response that there is wide recognition that incorporating the UNCRC will significantly advance the protection and realisation of children's rights in Scotland.

The DFM announced to the Parliament on 20 November that the Scottish Government will seek to fully and directly incorporate the UNCRC into Scots law, to the maximum extent of the Scottish Parliament's powers.

The Bill will be delivered within this parliamentary session, and will create a duty for devolved public authorities to carry out their devolved functions in a way that is compatible with the incorporated rights and requirements of the UNCRC. This duty on public bodies will have the effect of creating further accountability and will empower children and young people so that if their rights are not being fully respected they can, if they choose to do so, seek to pursue that through the legal system.

While the Bill will be introduced to Parliament after summer recess we recognise that public bodies will need a period of time to prepare for the duties under the Bill to incorporate the UNCRC. SG are currently engaging with public bodies to understand what UNCRC incorporation means for them and to discuss the implications of the Bill.

5.2 There was not time for a discussion on incorporation of UNCRC in to Scots Law and the impact on organisations and young people involved in offending.

It was agreed this would be discussed in more detail at the next meeting.

6. AOB

6.1 No other items raised.

7. Date of next meeting

7.1 The next meeting is scheduled for **8 September**. It was agreed that this would go ahead with specific focus on UNCRC and Care Review. The Board proposes to use Microsoft Teams again for this. Further details will be provided.