

**Youth Justice Improvement Board (YJIB) and Children’s Hearings Improvement Partnership (CHIP) joint meeting – Minute of the Meeting – 7 June 2023**

**Attendees**

<b>Ian Donaldson (Chair)</b>	<b>Susan Orr, Glasgow City HSCP</b>
<b>Jennifer Ward (minute)</b>	<b>Liz Cuschieri, SLAB</b>
<b>Nick Rougvie, SG</b>	<b>Joanne Smith, NSPCC</b>
<b>Liz Murdoch, SG</b>	<b>Fiona Dyer, CYCJ</b>
<b>Louise Piaskowski, SG</b>	<b>John Urquhart, COSLA</b>
<b>Shona Spence, SG</b>	<b>Grace Fletcher, East Ayrshire Council, NYJAG</b>
<b>Catriona Dalrymple, SG</b>	<b>Denise Downie, SPS</b>
<b>Neil Hunter, SCRA</b>	<b>Bill Fitzpatrick, Community Justice Scotland</b>
<b>Elliot Jackson, CHS</b>	<b>Lisa Bennett, SCRA</b>
<b>Alistair Hogg, SCRA</b>	<b>Cheryl Clark, COPFS</b>
<b>Stephanie Ross, COPFS</b>	<b>Elaine Adams, CELCIS</b>
<b>Gordon Main, SCRA</b>	<b>Helen Etchells, SCRA</b>
<b>Bryan Evans, Children 1st</b>	<b>Selwyn McCausland, Barnardos</b>
<b>Hazel Robertson, Perth &amp; Kinross Council</b>	<b>Jillian Gibson, Cosla</b>
<b>Carol Wassell, CHS</b>	<b>Lynsey Smith, Includem</b>
<b>Paul Mulvanny, SCRA</b>	

**1. Welcome and Introduction**

**Ian Donaldson** (Chair) welcomed attendees to the joint YJIB/CHIP meeting and explained that the main focus of the meeting would be on the publication of the Children’s Hearings System Working Group report, followed by updates on the Children (Care and Justice) (Scotland) Bill and the Age of Criminal Responsibility Advisory Group.

**2. Children’s Hearings System Working Group (HSWG)**

Ian gave an overview of the working group and its objectives, as well as some background of the HSWG. Confirmation was given that although the Scottish Government had attended meetings the group was independent.

**Nick Rougvie** spoke to the HSWG report which had been published on 25 May, which contained in excess of 100 recommendations. There was a strong representation of the voice of the child within the publication. The report outlined that a successful service would be of high quality with a focus on an inquisitorial system rather than adversarial, plainer more accessible language, a call for a change of roles within the system including specialised sheriffs and a national template for a child’s plan.

Recommendations included:

<i>Availability and access to ongoing help &amp; support for children &amp; their families</i>	<i>Children and family experience of the hearings system; an inquisitorial approach</i>	<i>The role of the Reporter; referral decision-making</i>
<ul style="list-style-type: none"> <li>• Investment in preventative services</li> <li>• FGDM and Restorative Justice</li> </ul>	<ul style="list-style-type: none"> <li>• Plainer, more accessible and less stigmatising language</li> <li>• Specialised sheriffs</li> </ul>	<ul style="list-style-type: none"> <li>• Change in test to be applied by reporter re compulsion</li> </ul>

<ul style="list-style-type: none"> <li>• Resourced social work</li> <li>• High quality service for voluntary measures</li> </ul>	<ul style="list-style-type: none"> <li>• National template for the Child's Plan</li> <li>• Review of SCRA and CHS lead roles (in particular the Chair)</li> </ul>	<ul style="list-style-type: none"> <li>• More active role of report to support associated processes</li> <li>• Promotion of more work pre-birth</li> <li>• Child's experiences at court to be more aligned to proposed hearings system approach</li> </ul>
<p><i>Advocacy and legal advice at point of referral; role of the reporter once a referral is received</i></p> <ul style="list-style-type: none"> <li>• More 'agile' offers of advocacy</li> <li>• Duties on Reporter to draw out views of children/families</li> <li>• New expectations of Reporter training</li> </ul>	<p><i>Understanding grounds for referral; role of the Sheriff; establishing grounds</i></p> <ul style="list-style-type: none"> <li>• Grounds to be framed more clearly</li> <li>• Disputed grounds resolved at Sheriff Court, away from the hearing</li> <li>• Adaptation to court environment</li> </ul>	<p><i>The need for the system; more conversational, less confrontational; composition of Panel</i></p> <ul style="list-style-type: none"> <li>• Professionalise Chairs and panel members</li> <li>• Consistent and available panel members</li> <li>• Hearings can retire to consider decision</li> </ul>
<p><i>Role of the Chair, Panel Members &amp; Reporter</i></p> <ul style="list-style-type: none"> <li>• Chair with oversight of delivery against Order and Child's Plan</li> <li>• Emphasis on personal qualities, legal competence</li> <li>• Wider training</li> <li>• Is Reporter necessary at the Hearing?</li> </ul>	<p><i>Involving children &amp; families in preparing for the Hearing; when, where and how long; attendance</i></p> <ul style="list-style-type: none"> <li>• Bespoke hearings for the needs of the child</li> <li>• Communication from the Chair as first contact</li> <li>• Greater flexibility for hearings</li> <li>• National Standards for relevant information from all 32 LAs</li> </ul>	<p><i>Participation and involvement of children and the important people in their lives</i></p> <ul style="list-style-type: none"> <li>• Recommendations include:</li> <li>• S3 of Children (Scotland) Act to be commenced</li> <li>• Full examination of risks and benefits of recording hearings</li> </ul>
<p><i>Role of the legal profession, Safeguarders &amp; social workers.</i></p> <ul style="list-style-type: none"> <li>• Push for legal representatives Code of Practice, more training</li> <li>• Clarity of role for Safeguarders including regionalised approach</li> <li>• Focused training for social workers in preparing reports</li> </ul>	<p><i>Respect for decisions &amp; timely implementation; Specificity of orders; maintaining relationships and long term planning</i></p> <ul style="list-style-type: none"> <li>• Active role of Chair in Child's Plan</li> <li>• Minimise moves for child supporting foster, kinship and adoptive parents</li> <li>• Review of adoption, permanence, residence legislation</li> <li>• Support post-hearing and Exit Plan</li> </ul>	<p><i>Role of the Chair in keeping LA accountable, regulatory power for Chair &amp; Reporter</i></p> <ul style="list-style-type: none"> <li>• Families to have way of communicating to hearing how things are going</li> <li>• Implementing authorities to regularly report progress</li> <li>• Chair to have power to reconvene hearing</li> <li>• Reporter to have power to call for review re new information</li> </ul>

<p><i>Quality Control and inspection; Data Sharing; Complaints</i></p> <ul style="list-style-type: none"> <li>• Consider a new accountability body and greater collaboration with Care Inspectorate</li> <li>• Improved collation and sharing of data cross-agency</li> <li>• Single point of contact for children/care-experienced to raise complaints about system</li> </ul>	<p><i>Implementing Recommendations</i></p> <ul style="list-style-type: none"> <li>• Oversight of Improvement Work</li> <li>• Legislative Change</li> <li>• Clear Sequencing</li> <li>• Testing and further consultation</li> </ul>	
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### **Next steps**

At the launch of the report on 24 May, the Minister for Children and Young People thanked Sheriff Mackie and the young people who collaborated in its production. The CHS is unique and rooted in the principles of Kilbrandon, and has remained true to those principles. There are important considerations to be taken into account - the care and attention that Sheriff Mackie and the group took in drafting the recommendations now needs to be reflected carefully on by Scottish Government in terms of how we take those recommendations forward.

A formal government response to the report will be offered by the end of this year, which will provide detailed reflection. Scottish Government will publish a consultation paper in early 2024, and on the basis of the response to the consultation will move forward on a number of different areas. Early consideration will be required on budgets for 2024/25 along with any required legal statutory provision.

### **Governance paper**

The group considered the paper on proposed governance and structure. There are key areas Scottish Government need to look at:

1. Consulting (the 7 June meeting was the start of the process)
2. Statutory responsibility – screen for rights
3. Check for unintended consequences
4. Budget / cost implications
5. In doing all this, maintain focus and stability of current process/system.

Proposals around governance arrangements have been tentatively set out. Ministers must be accountable to the Scottish Parliament, who will remain the ultimate decision-makers. It is envisaged that there will be a Board to support Ministers in decision-making, this board will contain a number of workstreams.

### **Discussion**

The CHS has been heavily involved in the development of the report. Kilbrandon is often referenced, and the report stays true to its principles. There are some excellent recommendations which can really change the lives of children. There is also some investment required which causes concern to partners. The response to the report has been fairly muted following headlines in the media.

People are understanding of the changes suggested, especially in relation to panel members being paid. Panel members are currently struggling with demands of the care, justice and

Children's Hearings systems. A panel member can be a 'superhero' for a child – however this continuity of relationship can be hard to deliver based on the volunteer model. Recruiting panel members is, in the main, difficult: the number of volunteers reduced during Covid-19. In addition, there is an inherent challenge in asking someone who is volunteering to give half a day a month for CPD training. CHS will discuss the report immediately with panel members. There is an understanding that CHS need to and can do more – but the volunteering model will come under scrutiny sharply in the next two years.

SCRA is committed to implementation of reform and feel it is important for young people and young people's groups to contribute to this. Relationships and consistency are key - the Chair is a crucial way to strengthen this. SCRA colleagues will be meeting with the CHS Board to discuss a number of recommendations in relation to the skills of the Chair. They will also need to consider the different roles for social work, the Reporter and others.

This is a shift from a welfare-based to a rights-based system. SCRA need to consider how to take this forward. It is important that they see an emphasis on the involvement of children and young people in taking the recommendations forward.

The involvement of the social work workforce was encouraging, however, there remain some concerns around resourcing. There was also a concern around the inclusion of 16 and 17 year olds in the CHS and the huge demands that this change will entail for the workforce. Health colleagues regard children of 16 and 17 as adults and some 16 and 17 year olds are parents themselves. Members agreed that children should not be in young offender's institutions but funding must be considered as this change comes at a cost. There is some anxiety and apprehension from a social work perspective around how we deliver on the recommendations.

The review of children's social care in England conducted by the UK Government, was highlighted. The review was highly critical and so it is encouraging that Scottish Government have put in place a framework early on as we could face the same criticism. We expect an analysis of progress in a couple of years. This is a major change to a well-established system. Sheriff Mackie has been very clear in the report (on p208), that the CHS is threadbare. There is limited capacity and capability. We are facing a looming crisis in children and families social work. A structured approach is required, to how we make this change happen as there is a real chance and risk of destabilisation.

It was noted that the Hearings system consists of more than social work and that third sector involvement is also crucial. Avoiding the tendency to look at the statutory parts as those which need to change would be helpful. Commissioning of services also needs to be looked at. We also need consistency in terms of relationship-based practice – commissioning tends to be very short term. One of the strengths of the third sector is that it is non-statutory.

It is important to look at commissioning and procurement as these are our biggest challenges. The COSLA position is supportive, however we cannot just talk about the impact on social work and local government without talking about our Promise commitments, the National Care Service (NCS) and other forthcoming changes – transformational change involves putting pressure on our workforce. The system can feel 'cluttered' and we need to have a joined up conversation around everything that is going on at the same time.

There are ongoing challenges in central government around the NCS and the challenges from Justice social work. Transformational change should not collide with other agendas – these should not be competing agendas and they should be properly linked. Potentially there is work in in the NCS which could really support and help this work and the report's recommendations. There are also some areas of work which could pose a challenge – we need to identify those areas and not duplicate.

## **Concerns**

It was agreed that more consultation needs to take place around the proposals. Focus now must turn to investment, development and how the recommendations will be funded.

Huge improvements have already been made in SCRA/CHS so it is important to note that we are not starting from scratch. To reiterate the previous message about sequencing and priorities – we really need to consider how to deliver a programme of work over a specific time frame. What are our priorities? With regard to the workforce, CHS is very alert to the fact that we would be delivering a service to a huge group of people and this may impact the rest of the sector. Holistic workforce planning must be at the core of our established priorities. CHS is open to challenge and doing things differently, and trusts the contributions of other agencies.

There are panel members who already appear to be very skilled, and there is some concern about losing that local context. There will be changes for disabled children which must be taken into consideration. Every disabled child requires a child's plan supported by social work.

There are concerns around the potential delay to court times due to the Covid backlog. There is potential for children to get lost in the court stage – this will require careful examination of legislation when the time comes.

There are some reservations around the needs of very young children. Infants and under 5s should be included in the core of the report. We need to harness capacity and meet the needs of young people in their infancy. The thrust of the recommendations were attributable in the main to verbal children. There is an emphasis on the needs of older young people – proactive action is needed to rebalance that and consider implementation for under 5s.

Further detail is required around avoiding a situation where we have a twin system which distinguishes between those children who don't need to attend a hearing, and those who do.

Some consideration is needed around how we support 18 year olds to prevent them from 'falling off the cliff'. There is still some anxiety around what that will mean if we are stretched for resources and struggle to deliver.

Concerns about professionalising the role of the chair and members were echoed by attendees. Children's panel members deal with complex matters all the time but rarely are they an expert on child welfare. There is value in volunteering, and some concerns about the motivations of paid members should this be introduced.

It is important to be mindful of current justice reforms which are taking place, including legislation around sexual offences. We expect to encounter some of the same issues about the live environment.

## **Next steps**

Attendees were asked if they had any thoughts about next steps. There will be a Board to lead on this work, and we will need to be aware of all other things going on around transformational change.

There will be a requirement to report to Ministers. It was noted that reporting should be to COSLA leaders as well as Ministers to ensure that we seek the views of both.

There is a complexity of governance structures; prioritisation will help other governance groups to identify where their work sits. Imposing some kind of temporal order will be beneficial.

It was agreed that August would be an appropriate time to begin the engagement process.

**Action: Scottish Government to speak to COSLA regarding engagement with COSLA leaders as well as Ministers.**

### **3. Care and Justice Bill - update**

**Shona Spence** provided an update on the Care and Justice Bill, which has in recent months been subjected to robust scrutiny. Members were informed that the Committees were due to submit their reports on the Bill shortly with stage 1 deadline at end of June. There was a call for views and evidence has been collated which has allowed a clearer picture on emerging themes.

Some of those emerging themes include looking at the definition of a child, removing children from YOIs, issues around MRCs, and information to victims. The Financial Memorandum which has been put before the Committee will be refreshed over the summer. Colleagues have had further meetings with COSLA and will continue to meet with partners to get the best idea of resourcing. An implementation group has been set up. There will be another group in August and September. Members were asked to contact the Bill team if they were interested in joining the group and weren't already invited. The implementation group will be looking at commencement and sequencing and will take a more detailed look at those in the summer. The Care and Justice Bill was also the focus of the Youth Justice Conference.

**Action: Jenny to share sequencing diagram with the group.**

Given that many of the organisations present gave evidence on the Bill, the group were asked to reflect on some of the discourse around the Bill and to offer their thoughts on the process so far.

It was noted that the debate remained split on party lines and that this would continue to be an issue, especially in relation to capacity across the workforce. It would be important to stick to UNCRC principles.

With regard to the amendments brought forward at stage 2, the Bill will need to be considered against other areas of legislation.

Confirmation was provided that there is a lot of work going on around victims including the Victims and Witnesses Bill.

The financial memorandum is important. Resources need to be in place by the time of implementation. This includes upskilling people and training, as well as investment in services.

### **4. Age of Criminal Responsibility (ACR) - update**

**Louise Piaskowski** provided an update on the work of the ACR Advisory Group. The review into ACR is just past the halfway point and has been supported by 4 sub-groups: data and research, operational implications, victims support and community confidence sub-groups. The Advisory Group last met on Monday 5 June and meets every three months. The Group is looking at information needed to determine what might be required to support a future age of criminal responsibility and formulate advice to be considered by Ministers at end of the review period in December 2024.

Use of powers under ACR has so far been limited. The Group is also looking at data around what the implications might be of raising ACR and whether the legislation is fit for purpose. A

Learning Event took place on the 26 January 2023 to give the opportunity to reflect on the learning since the commencement of the Act looking at the pre and post implementation. Learning points from the event will be summarised by the ACR Advisory Group and published in due course but will be shared with the YJIB/CHIP group.

**Action: Jenny to obtain summary of learning points from ACR learning event on 26 January 2023 and share with group.**

Work is ongoing around ChIRPs (lawyers who support child interviews). There have been 4 occasions since December 2021 which required the use of ChIRPs. Colleagues were expecting a larger volume of children under the age of 12 involved in harmful behaviour. The number will likely increase but we need to know by how many – this is what the sub-groups are looking into. Sub-group reports will go to the Minister for Children, Young People and Keeping the Promise for review. The UNCRC concluding observations published on 2 June has recommended raising the age of ACR to at least 14.

## **5. AOB**

### **Reimagining secure care - update**

**Fiona Dyer** provided an update on the reimagining secure care work, commissioned by Scottish Government Youth Justice Team. The work started in December and takes a co-design approach, being a partnership including social workers, SCRA and local authority leads. At least 122 practitioners have been involved in the work. Colleagues have visited 4 secure care centres, and have engaged with children and families through Kibble and Cyrenians. 12 sessions have been facilitated, future sessions are planned with CHS and panel members to look at secure care providers themselves, to examine the needs of children and young people in secure care and possible alternatives. The project is also looking at the cohort of children in secure and their circumstances, many young people are in secure care on welfare grounds and some are cross-border in secure care on welfare grounds. The work will then move to a design phase.

It is important that the work of reimagining secure care is transparent, open and involves everyone. A report will be published at the end of the year once the work has culminated. There is a governance group overseeing the work which is linked in with the secure care group. Colleagues were advised to get in touch with CYCJ if they wished to participate in the reimagining secure care work.