

# Youth Justice Improvement Board

## Minute of Meeting

8 March 2023

Attendees: Tom McNamara, SG (Chair)  
Liz Murdoch, SG  
Jenny Ward, SG (Minutes)  
Lisa Hay, SG  
Debbie Nolan, SG  
Megan Wharton, SG  
Sue Brookes, SPS  
Alistair Hogg, SCRA  
Karen Ralston, CYCJ  
Grace Fletcher, NYJAG  
Elliot Jackson, CHS  
Neil Hunter, SCRA  
Juliet Harris, Together Scotland  
Rod Finan, SG OCSWA/GIRFEC  
Sharon McIvor, Action for Children  
John Trainer, Social Work Scotland  
Ian McKinnon, Police Scotland  
Lynsey Smith, Includem  
Cat Dalrymple, SG Community Justice

Declined: Bill Fitzpatrick, Community Justice Scotland  
Gerald Michie, HMP&YOI Polmont  
Joanna Shiriffs, SOLACE  
Jillian Gibson, COSLA  
Fiona Dyer, CYCJ  
Laura Caven, COSLA  
Kenny Donnelly, COPFS  
Janine McCullough, Education Scotland

### 1. Welcome and Introduction

**Tom McNamara** welcomed attendees, in particular Sue Brookes, Sharon McIvor and Karen Ralston, who are joining for the first time. Sue Brookes will be taking over as formal representative for SPS interests from Gill Robinson, and Sharon McIvor will be taking over as representative for Action for Children from Paul Carberry. Welcome was also extended to Lisa Hay and Megan Wharton from the Scottish Government youth justice and Care and Justice Bill teams respectively.

**Ian Donaldson**, Deputy Director of the Children's Rights, Protection and Justice Division will take over as Chair at the next meeting.

### 2. Agree minute of the previous (October) meeting

The group agreed the minutes of previous meeting on 13 October 2022.

The following update on actions from October's meeting were provided:

- **Action: SG officials to consider a joint meeting between the Justice Board and YJIB to consider common issues across both portfolios now that the Justice strategy has been published**

**In progress:** Further details will be provided once a date has been agreed.

- **Action: *SG to invite Bairns' Hoose colleagues to a future meeting***  
**In progress:** Colleagues leading on Bairns' Hoose were unable to attend this meeting but prepared a paper for interest. It was agreed that SG colleagues leading on Bairns' Hoose would be invited to the June meeting.  
**Action:** Jenny to table Bairns' Hoose as an agenda item for June and invite Bairns' Hoose colleagues.
- **Action: *SPS colleagues to share Barnardos research on young people and their experience of courts - Completed***
- **Action: *Jenny to circulate a link to the WSA guidance for young people - Completed***
- **Action: *John to share Renfrewshire Council form with SG once the form is finalised***  
**In progress:** John advised that the form was created as good practice, to notify any out of area and cross-border placements. This will be ready to share with colleagues by the end of the week.  
**Action: *Form to be circulated once available***

### 3. Updates from Implementation Groups

**John Trainer** provided an update covering the top lines from the previous **Advancing Whole System Approach** meeting which took place on 7 December 2022 and the sub-group looking at Community Alternatives.

Over the next 6 weeks the group will continue to look at areas of priority such as Foxgrove and young people in custody. The group is also currently updating guidance around child protection and working on the GIRFEC refresh, with an emphasis on how to make sure CaRM fits into the child protection sphere and receives appropriate focus.

Some of the initial priorities for this group have now been absorbed into the work around the Bill. Consideration will be given to sequencing and timing to ensure readiness. Material in support of the Bill will need to be generated. It will be beneficial to be ready for this as the Bill progresses through Parliament in order to assemble a case to take forward the budget. There may be scope for a session in June around resourcing and implementation.

There is also some thought to be given around workforce capacity and equity of access to services across Scotland, given the challenges around delivering services in rural and island communities, and ensuring practitioners in those areas get the right training and materials. The WSA group are also focussed on strengthening the social care/social work workforce, particularly in order to support early and effective interventions at a local level. Neil advised that he is happy to participate in an anticipatory planning event which would focus on strengthening our integrated and co-ordinated approach to children and young people in conflict with the law.

There is some cross over between the work of the two groups around children in courts – Fiona has been leading on work around youth courts for consideration by Sheriffs.

**Juliet Harris** provided the group with an update of progress made in the **Children's Rights implementation group (CRIG)**, which last took place on 31 January 2023 and the working groups which sit under that group addressing speech, language and communication needs and participation.

Recent work has centred on ensuring UNCRC compliance, with the drafting of a paper analysing current legislation and compatibility with UNCRC. This is a significant piece of work so discussions have taken place with Scottish Government Children's Rights colleagues regarding SG progressing this work through agreement with Ministers.

Colleagues also met with the Bail and Remand team to look at some of the issues of compatibility; Bail and remand colleagues are content that their legislation meets compatibility requirements.

Elsewhere, work is taking place around the UN committee on the rights of the child – Scotland is about to go through its 6-yearly examination. This will highlight issues which the Scottish Government will be questioned about in May, such as the definition of ‘child’ in Scots law, ACR, prosecution in adult courts, deprivation of liberty and secure care.

The group is now looking at areas where children’s rights are upheld and not upheld – and whether this is policy or practice. They are also looking at what rights children have to complain when their rights are breached, as well as promoting awareness and understanding of children’s rights, as along with opportunities for engagement in education and housing. The group wants to look again at the action plan and review key priorities. The Board were invited to advise the children’s rights group of any priorities or actions now or in the coming weeks which they feel the children’s rights group should focus on.

The Board discussed how the above areas of interest link in with 2021 priorities and how we make sure that we continue to bring life and dynamism into these themes, rather than ticking off a list. The issue of speech, language and communication needs (SLCN) was identified as a gap. There is some work under way around access to SLCN through the Children’s Rights sub-group. Sue highlighted that boys are overrepresented with learning difficulties and that we need to be thinking about targeted responses given their increased likelihood of exclusion from school and subsequent offending. It was suggested that Sue may wish to join the SLCN sub-group. CYCJ has delivered a webinar and training on SLCN, which is going to be repeated in May. CYCJ is also looking at doing a podcast in April and producing an information sheet.

**Action:** CYCJ to invite Sue Brookes to the sub-group on SLCN.

#### **4. NYJAG update**

**Grace Fletcher** provided an update from the last NYJAG meeting which took place on 1 March 2023.

The last NYJAG meeting was held in-person and the group are aiming to hold two in-person and two virtual meetings a year in order to be inclusive. One of the points of discussion was the place of safety event held in January. NYJAG are awaiting a report from that event and are looking forward to setting up a NYJAG-specific event to discuss this matter nationally.

The group is undertaking a review of members to ensure full representation from local authorities. There is a sense that some members are not aware where NYJAG sits in the governance structure. The group is also aiming to update its terms of reference.

NYJAG is keen for YJIB to look at data – how are we collating data, are we managing to capture data nationally? We need to find out if issues are national which will be supported by enhanced data. The Board discussed some of the wider issues around data, in particular around obtaining police data. Data around EEL referrals and returns from LAs is also an issue. There is a need for good processes and structures to formalise asks so that data isn’t lost when people move on.

**Action:** Grace to discuss the issue of police data with Ian McKinnon.

NYJAG also discussed issues around social media commentary and campaigns such as those led by the Daily Record around young people using free bus passes. This is something that SG colleagues have also observed, in particular around a couple of significant cases in Glasgow city centre and subsequent media campaigns. It is important to make sure that we have a good set of responses. Public expectations often centre on punishment so a narrative of treating a young person as a child up to the age of 18 doesn't always receive public understanding. Victims' rights are prevalent in the minds of the public and more positive messaging around supporting young people can often be obscured by social media videos which influence public opinion.

## **5. UNCRC update**

Due to time constraints it was agreed that a written update would be provided after the meeting.

**Action:** Jenny to send a written update on UNCRC.

## **6. Care and Justice Bill**

**Debbie Nolan** shared an update on the Children (Care and Justice) (Scotland) Bill . Previous meetings have focussed on the consultation and its results (particularly in relation to the three key areas of maximising the use of the CHS, children at court, and advocacy).

Debbie began by providing colleagues with a recap of the different strands of work within the Bill.

Part 1: focusses on aspects of the Children's Hearings System such as raising the age of referral to the Reporter to 18, making clear that restriction of liberty under a compulsory supervision order should not evolve into deprivation of liberty. This also includes strengthening prohibitions that CSOs, which could enhance protections for victims.

Further elements of part 1 include looking at conditions for secure accommodation and information sharing provisions by strengthening the requirement for SCRA to inform victims of their right to request information. Part 1 provisions will not extend beyond 18, but guidance and supervision can be made available for those beyond 18 who need it, thus staying true to the Kilbrandon ethos.

Part 2: looks at the criminal justice system. By virtue of Part 1, there could be fewer children entering the criminal justice system, instead having their case addressed via the hearings system instead. Part 2 is about ensuring all CJS legislation around children is for under 18s. This includes looking at participation of children and ensuring that provisions for children who go to court are strengthened and extended. Support will be enhanced for children to participate better in court proceedings, and safeguarding of children who appear in court will also be improved. Part 2 will include changes to anonymity and reporting restrictions available to the child, and the possibility to extend those beyond the age of 18. This part of the Bill will also look at strengthening the ability for cases to be remitted to the CHS. If a child needs to be detained, this will be in secure care. That child will be treated as a 'looked after child', with potential to access care leaver entitlements.

Part 3: centred on residential and secure care, clarifying what is meant by 'accommodation' and ensuring absolute clarity about what secure care is and what is involved. Part 3 will also clarify the responsibilities for children involved in cross-border placements. This part of the Bill will look at the provision of placements and ensure that this is done in a more considered way.

Part 4: looks at the streamlining of ASBOs in relation to the Bill, as well as the repeal of parts 4 and 5 (named person).

It was noted that SPS have been asked to give evidence at the Justice committee session on 29 March Confirmation was provided that there are currently 9 (8 young men and 1 young woman) under 18s detained in HMP&YOI Polmont.

It is worth noting that often one incident involving a group of young people can explain a sudden jump in numbers in custody.

Others commented that the input around the Bill was interesting and addressed some of Juliet's earlier comments around compliance in relation to UNCRC. This will be a milestone Bill for Scotland. There are some concerns in relation to the disconnect around movement restrictions and deprivation of liberty. Part of the message imparted by the Bill is the range of options available through the CHS, and the supports and protections attached to a child which will make the difference.

Karen highlighted the importance of the financial memorandum and the criticality of resources. There is much to be learned from the recent Bail and Release Bill. It will be important to look at the formula used in the financial memorandum.

Debbie outlined timelines for the Bill and committee sessions for the Board to be aware of. The call for views is live until 17 March.. Any additional information around expected cost implications would be appreciated.

An offer was made by the Bill team for anyone wishing to discuss the Bill ahead of appearance at the evidence sessions. The Bill team are thinking about implementation. The team is also mindful that, although there are a number of groups and boards in existence already, there needs to be a dedicated space for the Bill and are open to hearing views on that.

Colleagues agreed that it will be helpful to get a sense of where the committee's interests will lie. Some will likely be concerned about the public perceptions of the Bill. The research base is not live yet and it would be helpful if the committee already have this information so that those appearing don't have to go into that detail. It was confirmed that a SPICE briefing is in development.

Fiona Dyer contributed to an informal session with the Committee which helped to lay the groundwork. In terms of implementation, it was felt that implementation is inextricably linked to resources. Resourcing needs to be in place – if the foundations are not there implementation of the Bill will fail. It is also important to ensure that there is enough time to deliver – the timeline needs to include time for proper investment.

## **7. CHIP update**

**Alistair Hogg** provided an update on the last meeting of the Children's Hearings Improvement Partnership (CHIP) which last took place on 2 March. There will also be a joint CHIP/YJIB meeting to take place on Thursday 18 May.

Some of the updates centred on recovery within the CHS following the pandemic. Remote attendance and hybrid meetings are still being used in about half of all hearings. There have been some challenges around delays in court. Our Hearings Our Voice are leading on work around language to promote consistency of language in different forums and establishing a set of principles in relation to language used in the CHS. A good practice

guide for solicitors is being developed. Colleagues are happy to share the language papers. CHIP has also had a session on the Bill.

The Hearings System working group report will be circulated soon but only to group members before being worked up into a full report, to be expected around May. The report may include reference to a move towards a non-adversarial system.

**Action:** Jenny to link papers for CHIP to YJIB website.

#### **8. AOB**

The next meeting will take place on Thursday, 22 June 2022. Ian Donaldson will Chair and it is expected that the meeting will be in person. Some of the suggested agenda items for the Bill include:

1. Learning and potential work from today's meeting – including the non-statutory reforms of the Bill.
2. The Hearings System Working Group report
3. Bairns' Hoose and ACR reforms
4. UNCRC update from May visit to Geneva
5. Reimagining Secure care and secure capacity
6. Data