

THE CHILDREN'S HEARINGS
SYSTEM IN SCOTLAND

TRAINING RESOURCE MANUAL VOLUME 2

Children's Hearings Handbook

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History and Principles



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The shortcomings which cause dissatisfaction within the present juvenile justice system (and this is no reflection on those who serve in such courts), seems to us to arise essentially from the fact that they seek to combine the characteristics of a court of criminal law with those of a specialised agency for the treatment of juvenile offenders, proceeding on a preventive and educational principle. On that principle, the offence while the essential basis of judicial action, has significance only as a pointer to the need for intervention

(The Kilbrandon Report, 1964, para. 74)

From the earliest age of understanding, every child finds himself part of a given family and a given environment – factors which are beyond his or society's power to control. During childhood the child is subject to the influences of home and school. Where these have for whatever reason fallen short or failed, the precise means by which the special needs of this minority of children are brought to light are equally largely fortuitous. The individual need may at that stage differ in degree, but scarcely in essential character, and such children may be said at present to be, more than most, in a real and special sense 'hostages to fortune'.

(The Kilbrandon Report, 1964, para. 251).

In any case which a court has to decide, it is simply a working hypothesis born of human experience. Men and women have always drawn on their own experience in everyday matters of family life and in any given society people will tend to share certain views about them. In language of unsurpassed beauty that has echoed down the ages, Proverbs and the Wisdom of Solomon give expression to the views on the upbringing and welfare of children which were current in ancient Israel. While we can never hope to emulate their poetry, we too, as a society in twenty-first century Britain, must hold certain common values and assumptions as to the upbringing of children.

(Lord President Rodger, *White v White*, March 2001)

1 INTRODUCTION

The children's hearings system, Scotland's unique system of juvenile justice, commenced operating on 15 April 1971.

The system is centred on the welfare of the child. A fundamental principle is that the needs of the child should be the key test and that children who offend and children who are in need of care and protection should be dealt with in the same system. Cases relating to children who may require compulsory intervention are considered by an independent panel of trained lay people. The rights of parents and children are protected by the legal framework which provides for decisions relating to the child's welfare to be decided by the panel of lay people while disputed facts and appeals are dealt with by courts.

One of the strengths of the children's hearings system is that it has been able to adapt to changing social and political climates. The fundamental principles on which it is based have been maintained while account has been taken of international conventions on rights. These include the specific rights for children contained in the United Nations Convention on the Rights of the Child and the general human rights set out in the European Convention on Human Rights.

2 HISTORICAL CONTEXT

Children and Courts

The first legislation to recognise the need for juvenile offenders to be dealt with separately from adults was the Children Act 1908. In Scotland, the minimum age of criminal responsibility was seven years and a child was classified as a juvenile up to the age of seventeen years.

Following the recommendations of a committee appointed in 1925 under the chairmanship of Sir George Morton KC to enquire into the treatment of young offenders and children requiring care or protection, the minimum age of criminal responsibility was raised to eight years in 1932. The Morton Committee also recommended the transfer of jurisdiction of cases of children and young offenders to specially constituted justice of the peace juvenile courts. It was intended that cases would be considered by justices who by knowledge and experience were specially qualified in such matters.

By 1961 when another review body was set up, children were being dealt with inconsistently in different types of courts. There were considered to be inherent difficulties in a model which tried to combine the processes of a criminal court with treatment of children who offended on a basis of prevention and education.

The Kilbrandon Committee

Remit and report

In May 1961 a committee was set up by the Secretary of State for Scotland under the chairmanship of Lord Kilbrandon, a senior Scottish judge. Other members of the committee were four justices of the peace, four lawyers, a chief constable, a headmaster, a psychiatrist and a probation officer.

The remit of the committee was:

“to consider the provisions of the law of Scotland relating to the treatment of juvenile delinquents and juveniles in need of care or protection or beyond parental control and, in particular, the constitution, powers and procedure

of the courts dealing with such juveniles, and to report”.

No-one could have envisaged the innovative and radical recommendations that the Kilbrandon Committee would produce which led to the setting up of the children’s hearings system.

The Committee’s report was presented to Parliament by the Secretary of State for Scotland in April 1964. With comparatively minor adjustments, and proposals, it survived three changes of government during the period of consideration and initial implementation as well as a major restructuring of local government arrangements, which included a complete revision of the way in which personal social service provision was organised.

At the time the Kilbrandon Committee deliberated, juvenile delinquency was a greater problem than cases in which children were victims of cruelty or neglect. It is one of the demands on the system that there has been a significant increase over the years in the number of referrals to children’s hearings of children, against whom offences are being committed, or children who are members of the same household as a child or children against whom an offence has been committed. Researchers at Edinburgh University have found a correlation between children who are victims before they are twelve, being more likely to become offenders by fourteen or fifteen.

Conclusions

The Kilbrandon Committee concluded that:

- although there might be distinguishing circumstances, there was a basic similarity in the underlying situation of children who appeared before the courts. This was their common need for special measures of education and training as “the normal upbringing processes”, for whatever reason, had failed or fallen short. The treatment measures operating at the time of the Committee’s deliberations were based on an educational principle. It recognised and aimed to strengthen, and build on, natural influences which through education and training would assist the child to develop into a mature and useful member of society.

- the most powerful and direct of these influences lay within the home and any measures to treat children had to involve, as far as possible, working closely with parents. However, the Committee rejected any suggestions that parents should be subject to direct sanctions, such as supervision, restitution or fines, as it believed these measures were incompatible with the educational principle.
- a process of social education was required which, on the basis of persuasion, sought to strengthen, support and build on natural family instincts by engaging the co-operation of parents. A special agency – a social education department – should be established as a division of the education authority to undertake this work.
- the arrangements for dealing with children appeared to have developed in response to particular local situations rather than on the basis of conscious principles. There was an underlying conflict and incompatibility between the principle of establishing guilt and innocence and appropriate punishment and introducing future preventative measures. The balance between these concepts was particularly acute in relation to juveniles. The common law recognised that the element of youth might be a mitigating factor. Statute law placed increasing emphasis on the need to have regard to the child's future welfare and to provide measures of education and training in the child's best interests.
- if juvenile courts were expected to take into account circumstances outside of the actual offence, then treatment measures might appear to the child and parents to be out of proportion to the nature of the offence. This might affect the successful application of measures identified as necessary on an educational principle. The matter was complicated further by the fact that juvenile courts were also dealing with situations where children required care and protection and where a different standard of proof was required. The conviction of parents for criminal neglect or situations of serious moral danger (actual or potential) to the child, were commonly recognised as being possible precipitating factors towards future delinquent behaviour.

In taking all these factors into account, the Committee reached one of the most important and far-reaching conclusions. The over-riding and paramount principle was that the needs of an individual child required to be assessed so that appropriate

treatment could be applied. This could only be achieved by objective examination of all surrounding facts and circumstances. It was inappropriate to expect a single agency to determine disputed facts and establish what an individual child's needs were in the light of the fullest information about the child's personal and family circumstances.

3 THE PROPOSALS FOR JUVENILE PANELS

The Kilbrandon Committee recommended that entirely new arrangements were required to deal with all children in need and that a special treatment agency or panel was necessary, which would be neither a court of law nor a local authority committee.

The panel would be essentially a lay body, comprising persons who either by knowledge or experience were considered to be specially qualified to consider children's problems. This was a model on which none of the then current systems of juvenile justice was based. The panel would have powers of compulsory action and the power to modify or vary measures appropriate to the individual child.

What distinguished panels from the juvenile courts then in existence was the manner in which the powers would be exercised. The criterion for action would be the child's need for special measures of education and training. The panel's jurisdiction would be founded on grounds where the basic facts were agreed or accepted, with disputed matters being referred to a sheriff for adjudication.

Jurisdiction

Panels would be empowered to exercise a continuing jurisdiction over all children referred to them subject only to a statutory age limit. Within that period, they would have the widest discretion to alter, vary or terminate measures initially applied in the light of the child's progress and response.

Rights of Appeal

As the proposed powers represented a substantially greater measure of intervention in the lives of the families affected by them, a right of appeal to the appropriate judicial authority would be available.

Compulsory Intervention

Whenever possible, informal or voluntary supervision or assistance within the local community should be used so that only in the most problematic cases would compulsory supervision be required. If they were, the juvenile panels would have the widest discretion to vary treatment measures, including the power to remove a child from home.

The Crown's Right to Prosecute

The Crown retained overriding discretion to prosecute in exceptionally serious matters. Otherwise, the prosecution of all children under the age of sixteen would be removed from the jurisdiction of the criminal courts. The Committee recommended the abolition of the minimum age of eight as the age from which a child might be held to be responsible for criminal actions.

Appointment of Panels

It was recommended that panels in each education area should be appointed by the sheriff and panel members would receive appropriate instruction and training. This would include the opportunity to meet periodically at conferences at national level to provide both basic information and wider interchange of ideas and experience among members of the panels. In some of the largest urban areas, it was thought it might be appropriate to have full-time salaried chairmen of juvenile panels.

Premises

The premises used for sittings of the panels should be apart from, and entirely unconnected with, the criminal courts and police stations. Although it was appreciated that hours of sitting would be a matter for local arrangement, the Committee expressed the hope that, bearing in mind the desirability of securing both parents' attendance, there would be evening sittings and, in some cases, Saturday sittings.

Referrals to Panels: the role of the reporter

Referrals to the panel would be at the instance of an independent official to be known as the reporter. As this official would act as gatekeeper to the system, it was thought that reporters should be competent to assess both the legal issues and also the wider question of public interest. A legal qualification, as well as a period of administrative experience, relating to child welfare and educational service, were relevant requirements. In addition to handling referrals, reporters would have administrative responsibility for the general ordering of the panels' business, and would also act as clerks to the panels.

4 IMPLEMENTING THE RECOMMENDATIONS: THE SOCIAL WORK (SCOTLAND) ACT 1968

There was intense and heated debate about the shift from courts towards a system based on 'social education'. Despite the controversy, the government accepted the recommendations in principle and in much of the detail.

A White Paper '*Social Work and the Community*' produced in 1966 retained most of the core proposals of the Kilbrandon Committee and introduced the specific terms 'children's panels' and 'hearings' for the first time. The White Paper included a range of possible decisions (known as disposals) that would be available to hearings. These included discharge of the case and home or residential supervision.

Significantly, the White Paper also linked juvenile justice to developments taking place in the organisation of social work. The aim was to create a new kind of social work department, bringing together the various specialised social work services – probation, the children's departments and welfare departments of councils – in order to provide an effective all-encompassing system.

The White Paper recommended that the newly organised social work departments should provide the supporting services necessary for the work of children's hearings. This meant, essentially, that one of the fundamental planks of the Kilbrandon model was never put in place – that is, an integrated social education department. This led to education departments within local authorities passing off responsibility to social work departments with resultant tensions between departments about provision of appropriate resources for children deemed to be in need of compulsory supervision.

Statutory provision for the new system was made in the Social Work (Scotland) Act 1968. Parts I and II of this Act enabled the necessary changes in the organisation of social work services to be made and the new social work departments were set up in November 1969. Part III of the Act, which established the children's hearings system, was not implemented until April 1971. This allowed time for the changes brought about by the reorganisation of social work to become established prior to the

departments taking on responsibility for duties imposed in the legislation to deal with children in need of compulsory supervision. In March 1967, the Social Work Services Group was formed and attached to the Scottish Education Department as the agency which would supervise social work and the children's hearings system.

5 FUNDAMENTAL PRINCIPLES OF THE CHILDREN'S HEARINGS SYSTEM

The children's hearings system was, from its start, underpinned by principles set out in the Kilbrandon Report. These brought together the law, expertise in providing child care and informed lay judgment in order to reach decisions on what care was needed in the best interests of individual children. The key principles are:

- children who offend and children against whom offences are committed should normally be dealt with in the same system – but children who commit very serious offences may be dealt with by the courts
- the system is based on a concern for the welfare of the child, not punishment
- while the child's needs are normally the test for intervention this does not mean ignoring deeds as to do so would not be in the child's best interests
- the gatekeeper to the system, the reporter, gathers evidence to support specified reasons for referral to hearings, known as statement of grounds, and also applies the test of the need for compulsory intervention
- hearings are conducted in private but are open to prescribed public scrutiny
- decisions in hearings are made by trained lay people, representing a cross-section of the community
- children and parents have the right to accept or deny the statement of grounds and disputed facts are dealt with by a sheriff
- hearings consider 'the whole child', that is the child in the context of his or her life
- the style and setting of hearings is relatively informal to encourage full and frank discussion while legal procedures are observed
- hearings should attempt to engage the co-operation of families in resolving problems
- parents are generally the best people to bring up their own children and should be encouraged and enabled to do so whenever possible
- hearings must seek, listen to and take account of the views of children and their parents in reaching decisions
- compulsory supervision should be beneficial, with decisions taken by children's hearings being in the best interests of the individual child

- compulsory supervision encompass protection, treatment, guidance and control
- children should remain in their own community whenever possible and service provision should be integrated
- other rights, such as the right to appeal and to review compulsory supervision, are built in to the system.

6 REVIEW AND REFORM

The First Twenty-five Years

In the early years there were many uncertainties. There were questions as to whether sufficient volunteer panel members would come forward. If they did, could lay people really be trusted to make such important decisions about the lives of children? Would supervision be effective, or would it be a soft option? The first group of newly trained reporters and panel members began to put the pioneering legislation into practice throughout the country in April 1971 and the Kilbrandon vision of a welfare-based system of juvenile justice became a reality.

Children have been referred to reporters in increasing numbers year by year and hearings take place across the length and breadth of Scotland. By 1996 when the twelve regional local authorities were reorganised into thirty-two single-tier authorities, there were approximately 2,000 panel members serving throughout Scotland and this number has continued to increase.

The reporter service, which was placed within local authorities, became a separate agency, the Scottish Children's Reporter Administration, in early 1996.

The training of panel members, which has developed over the years, aims to encourage consistency of practice while allowing sufficient flexibility to take account of varying local needs. The three stage induction course is compulsory and panel members are appointed by the National Convener subject to satisfactory completion of the pre-service course before they are permitted to sit on hearings. There is a formal assessment process within pre service course.

Providing reports for hearings and giving effect to compulsory supervision orders are a major part of the responsibilities of social work departments, although, strictly speaking, the responsibility rests on the local authority. A complex network of relationships has grown up among the different agencies involved in the children's hearings system.

Though not without its critics, the system earned credibility and respect over its first twenty-five years. The principle that determination of disputed facts and decisions on the care of the child are separate was described by Lord President Hope in 1991 as *'the genius of this reform which has earned it so much praise'*. The system has survived two radical reorganisations of local government in Scotland. A major ongoing concern is, however, the provision of adequate services for children and families in the light of growing demands on limited resources.

Initially, children's hearings were concerned mainly with children who had committed offences, but in the late 1970s reported incidents of child abuse increased and in the 1980s child sexual abuse began to be acknowledged as a widespread problem. The number of care and protection referrals to hearings has grown steadily over the years, linked to parental substance misuse and consequent neglect and physical and emotional harm to children. The system also had to adapt to extensive social changes over this period which have put pressure on children and their families.

Review of the Law

Recognising that change was needed, the Secretary of State for Scotland appointed *a Review Group in February 1988 to consider options for improving child care law in Scotland*. The Review Group's report was published in October 1990 but action on the recommendations was delayed to await the results of two important inquiries – Lord Clyde's investigation surrounding the removal of a number of children from their homes in Orkney, and a report by Sheriff Brian Kearney, with Professor Elizabeth Mapstone, child care adviser, on child care policies in Fife. Both reports were published in October 1992.

The same year saw the publication of a review of residential child care by Angus Skinner, Chief Inspector of Social Work Services, and a review of the functions and accountability of reporters to children's panels, by Alan Finlayson, a retired regional reporter.

In addition to these reports on aspects of child care, the Scottish Law Commission's Report on Family Law recommended that family law should give greater emphasis to

the concept of parental responsibilities rather than parental rights and should stress that even if they cannot live together, both parents should normally have a role to play in their child's life. In addition, it was felt that the law should recognise and respect the views of children in matters affecting their upbringing. Adoption law and services for children and young people with disabilities were also reviewed.

7 THE CHILDREN (SCOTLAND) ACT 1995

In 1993 a White Paper '*Scotland's Children: Proposals for Child Care Policy and Law*' was published. This emphasised the confidence of the government in the children's hearings system and its commitment to it but recommended some reforms, particularly in relation to emergency protection of children.

The Children (Scotland) Bill followed in November 1994. While emphasising children's rights and needs and the importance of working in partnership families, the government also stressed the need to ensure that young people who commit offences were dealt with effectively. The provision of care services must not shy away from the need to set clear boundaries for young people and point out the consequences of failing to respect the rights of others.

During the progress of the Bill through Parliament there was a substantial amount of consultation and amendment. The Special Standing Committee met in Scotland for the first time in February 1995 and took evidence from, amongst others, families and organisations concerned with children's welfare and rights. Royal Assent was given on 19 July 1995.

The Children (Scotland) Act 1995, implemented on 1 April 1997, marked a significant stage in the development of legislation on the care of children and largely replaced those parts of the Social Work (Scotland) Act 1968 which relate to children. It is centred on the needs of children and their families and also defines parental responsibilities and rights in relation to children.

It established in Part 1, the private law section of the Act, that in order to retain rights in respect of their children, parents were required to fulfil their parental responsibilities. In certain circumstances, parents may be deprived of their parental rights.

In addition to the legislative framework for the children's hearings system, the Act also sets out the duties and powers available to public authorities to support children and their families and to intervene when the child's welfare requires it.

Principles and Themes

The Act reaffirms that the positive development of child care should be based on clear principles. Thus, whilst retaining and building on the fundamental Kilbrandon philosophy and principles, it incorporates provisions which conform to commitments under the United Nations Convention on the Rights of the Child, which was ratified by the British Government in December 1991. (See Appendix 1). It also sought to take account of obligations under the European Convention on Human Rights. (See Appendix 2).

The following key principles of the United Nations Convention on the Rights of the Child are implicit themes in the legislation or explicit requirements on decision-makers:

Every child has the right to be treated as an individual

Although some basic needs are universal, there can be a variety of ways of meeting them. Each child is unique. It is not in the interests of individual children to be treated as 'cases' or according to rigid rules. This has potential consequences for hearings and others, when a number of children in a particular family are referred and their needs, as individuals, may differ.

Children have the right to express their views about any issues or decisions affecting or worrying them

The views and concerns of children should always be taken seriously and given due weight in reaching decisions. Child care policy should be based on listening to children.

Every effort should be made to preserve the child's family home and contacts

Children generally fare better in the long-term if they experience family life in the care of their birth parent(s). Authorities should make every effort to preserve the child's family home and contacts. A range of services should be available to sustain

children safely in their family home through difficult periods. However, sometimes the risks to a child at home are so great that reception into public care is the best option. Removing a child from the care of his or her birth parent(s) is not an action which should be taken lightly. If a child is received into care, changes of placement should be minimised as they can be disruptive to the child's development.

Parents should generally be responsible for the upbringing and care of their children

Parents should be expected and supported to fulfil their responsibilities to their children. If a child cannot live at home either temporarily or permanently, parents should be encouraged to remain as closely involved as is consistent with the child's welfare. Responding to the needs of parents and working in partnership with them can be an effective and direct means of promoting the child's welfare. Contact with a child living away from home, or one of the parents, requires careful consideration and may raise complex issues when the parents' rights to main contact with a child are considered to be harmful for the child.

Children, whoever they are and wherever they live, have the right to be protected from all forms of abuse, neglect and exploitation

All reasonable steps should be taken by authorities to prevent children within their area suffering from any form of ill-treatment or neglect. The duty to provide any necessary protection must remain a top priority. Children in all settings may be at risk from trusted adults and some children, including those with disabilities, may be especially vulnerable.

Every child has the right to a positive sense of identity

The child's rights to a positive sense of identity can be encouraged through respect for the child's race, colour, sex, language, religion, disability and ethnic or social origins and the child being given appropriate information about his or her family background. Children should be treated without discrimination irrespective of their background. All children also have the right to expect that any personal information will be handled sensitively.

Any intervention in the life of a child or family should be on formally stated grounds, properly justified, in close consultation with all the relevant parties

Care should be taken to ensure that children and parents are fully aware of what is happening in any intervention by the State in their lives and that they are clearly informed of the time-scales involved in this process. The separation of children under sixteen from their parents against the wishes of any of them should take place only when a competent authority determines that such a step is necessary and where the action is subject to clear legal procedures and open to legal challenge. The welfare of the child should be the most important factor in all action taken in relation to children, whether it takes the form of compulsory or voluntary measures of intervention.

Any intervention in the life of a child, including the provision of supportive services, should be based on collaboration between all the relevant agencies.

All children are entitled to expect good health care and education. Local authorities have a responsibility to provide services and assistance for children and families which will promote their general welfare. Children have the right to expect that professionals from social work, health, education and other services will collaborate in a child-centred way by fulfilling their own roles while understanding and respecting the contributions of others. It is important to ensure that the efforts of all those working for children benefit children.

The hearings system covers entry of children from birth to sixteen, although supervision may be continued up to age eighteen. The United Nations Convention on the Rights of the child defines anyone below the age of eighteen as a child unless under national law majority is attained earlier.

Key principles underpinning decision-making

The Children (Scotland) Act 1995 requires courts and children's hearings to bear in mind the following central principles in reaching decisions:

- the welfare of the child is the paramount consideration in most decisions being made by courts and children's hearings (unless members of the public need to be protected from serious harm)

- children should be given an opportunity to express a view and, if they do so, consideration should be given to the child's views; children of twelve or over are presumed to be sufficiently mature to be able to form a view
- no court should make an order relating to a child and no children's hearing should make a compulsory supervision order unless the court or hearing considers that to do so would be better for the child than making no order or compulsory supervision order at all.

The principles that underpin the hearings system do not stand alone. They require a sound framework of law, social policies and professional skills. These processes need to be supported and enhanced by comprehensive on-going training. The application of apparently straightforward principles may be complicated in individual cases, where there may be tension between the needs, interests and rights of parents and child, between short and long term needs and goals, between fact and suspicion and where there may be uncertainty about the true nature of problems.

8 EUROPEAN CONVENTION ON HUMAN RIGHTS

Protection of Rights

The European Convention on Human Rights was drawn up in 1950 and ratified by the United Kingdom in 1951. Its historical context is the Second World War and the lowering of the 'Iron Curtain' across Eastern Europe. Forty European countries are party to the Convention and required to give effect to the rights which it sets out.

From 1966 British citizens had the right to apply to the European Commission on Human Rights if they felt their rights under the Convention had been infringed by the state. The Commission, if they found applications fell within their scope and had merit, could refer the case to the European Court of Human Rights for judgment. This could be a very lengthy process. Although the Commission has been abolished, the right to apply to the Court remains in force.

The Scotland Act 1998

In terms of the Scotland Act 1998, rights conferred by the European Convention on Human Rights have been binding on the Scottish Parliament and the Scottish Executive since 20 May 1999 when the Scottish Parliament came into being. Scottish legislation must be compatible with Convention rights.

The Human Rights Act 1998

Since 2 October 2000, when the Human Rights Act came into force, all 'public authorities' (which includes children's hearings, local authorities and the Scottish Children's Reporter Administration) are required to ensure that their actions are compatible with Convention rights. The fundamental difference to the previous position is that cases relating to alleged breaches of Convention rights can now be taken to domestic courts or tribunals in the first instance, and can be enforced by them. This provides the opportunity for easier access to courts to enforce rights and to speedier resolution of disputes. (See *S v Principal Reporter and Lord Advocate* below).

Key articles affecting the hearings system

Unlike the United Nations Convention on the Rights of the Child, the European Convention on Human Rights was not drawn up with the rights of children as one of its explicit objectives. Not all the articles are relevant to the hearings system.

Key articles which are or may be relevant to the hearings system are:

Article 6: right to a fair trial

This Article deals with the concept of a hearing which is fair to all parties. Trials or hearings must take place within a reasonable time and be heard by an independent and impartial tribunal established by law. There is a presumption of innocence until proved guilty by law. Parties are entitled to be informed in a language they understand, where applicable to have the free assistance of an interpreter, and to have adequate time and facilities for the preparation of a defence. This process must include free legal assistance where the interests of justice so require.

In 1995 the European Court of Human Rights decided that the United Kingdom government was in breach of Article 6 because the mother of a child subject to compulsory supervision in the hearings system was deprived of her right to participate in the decision-making process (*McMichael v UK*). The reason for this was that, at that time, the parents had no right to see papers which panel members considered in reaching decisions, although the chairing member of the hearing had a duty to disclose the substance of the information contained in the reports.

The judges in the *McMichael* case also considered that this might adversely affect the parents' ability to seek advice in order to appeal hearings' decisions. This matter was rectified in October 1996 when parents were given the right to receive the same papers that went to panel members. At that time, the right of children to receive papers was not tested.

Article 8: right to respect for private and family life

This Article provides that everyone has the right to respect for his private and family life and that there should be no interference with this right except what is proportionate in accordance with the law and necessary. Grounds for intervention

need to be clearly stated, with clear justification. The father in the *McMichael* case argued that his rights had been breached because, as an unmarried father, he was deprived of the automatic right to be consulted in the care proceedings relating to this child. Neither the European Court nor Commission supported this view, although they have done so in later cases not connected with the hearings system.

Other potentially relevant articles:

Article 3: prohibition of torture

No-one shall be subjected to torture or to inhuman or degrading treatment or punishment. There have been considerable variations in the past as to interpretations by courts as to what is or is not 'reasonable chastisement' of children and courts may be called upon in the future for a clearer definition.

Article 5: right to liberty and security and Article 7: no punishment without law

There are potential implications in a number of respects. It is possible for police officers to detain 'unruly' children in cells if no suitable alternative accommodation is available in local authority premises. This might be perceived to be a breach of the child's rights but it is a power used only in exceptional circumstances.

Where children have been brought before the adult courts charged with serious offences, the courts are requiring that the time scales for bringing the case to trial should be as short as possible consistent with the interests of justice.

Hearings may specify in a compulsory supervision order or an interim order that a child '*shall be liable to be placed and kept in secure accommodation*'. This authorisation permits the head of the establishment, in agreement with the chief social work officer of the local authority, to keep the child in a secure place for as long as they consider necessary, subject to review provisions.

Article 14: prohibition of discrimination

This article states that the rights and freedoms set out in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language,

religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. These prohibitions are similar to the principles and themes in the legislation which take account of provisions in the United Nations Convention on the Rights of the Child. For hearings, there may be issues about appropriate interpreters being available where a child or parents from a minority ethnic group appear at a hearing and English is not their first language. There are also considerations about placement of children in foster care or when a permanence order with authority to adopt, or an adoption petition, is sought.

Convention protocols

As of January 2010, fifteen protocols to the Convention have been opened for signature. These *can be divided into two main groups: those amending the framework of the convention system, and those expanding the rights that can be protected*. The former require unanimous ratification by member states before coming into force, while the latter require a certain number of states to sign before coming into force.

Protocol 1: Article 2: right to education

This Article states that no person should be denied the right to education. There are potential implications for local authorities in relation to the exclusion of children from school, without alternative arrangements for ongoing education being provided which respect the parents' religious and philosophical convictions. It does not, however, guarantee any particular level of education of any particular quality.

S v Principal Reporter and Lord Advocate

The first major ECHR challenge to the hearings system in the domestic courts related to a case involving a fifteen year old boy charged with assault following an incident in which the boy's father was so seriously injured that he died some months later. The boy appeared before a children's hearing but did not accept the grounds and a legal challenge was mounted on his behalf alleging that his human rights had been breached in a number of ways.

The issues in the case were considered in February 2001 by the highest civil court, the First Division of the Court of Session, headed by Scotland's senior judge, the Lord President. Crucial issues of principle were clarified by the Opinions of the three judges who concluded that:

- the children's hearings system falls within Article 6 of the ECHR (right to a fair trial)
- children's hearings are independent tribunals in terms of Article 6(1)
- when dealing with offence grounds, a hearing is not determining a criminal charge and, accordingly, it is not a criminal process to which Article 6(2) and (3) safeguards have to apply
- it is a process determining civil rights and, in so doing, some of the general protections of Article 6 have to be considered and implemented
- the availability of legal assistance is desirable in certain circumstances where it is in the interests of justice. This might apply particularly with regard to the discussion of complex reports and where secure accommodation is being considered
- the Scottish Children's Reporter Administration's proposal to make papers available to children – outlined to the Court – was recognised as a significant development in line with Convention compliance but failure to implement such a scheme properly might lead to a breach of Article 6.

Note: with effect from June 2009, the *Children's Hearings (Legal Representation) (Scotland) Rules 2002* were amended to enable panel members to appoint legal representatives for relevant persons if specified criteria were met. There are currently new provisions for the child to access legal assistance at certain children's hearings. For more information, refer to Volume 1 section 12.

9 MODERNISING CHILDREN'S SERVICES AND THE CHILDREN'S HEARINGS SYSTEM FOR THE TWENTY-FIRST CENTURY

A number of policy initiatives and a revised legislative framework have been developed, commencing in the first decade of the new millennium. In 2006/2007 there was consultation on a proposed Children's Services Bill. Consideration was given to a single national body for the children's hearings system, bringing together the various bodies involved in support, organisation and delivery of the children's hearings system. However, instead, a bill was brought forward, and subsequently passed as the Children's Hearings (Scotland) Act 2011 [see *Law and Procedure*]. One of the key changes is the establishment of Children's Hearings Scotland, a non-governmental departmental body led by a National Convener. Duties to select, appoint, train and support panel members will fall to the National Convener and they will discharge these functions by way of area support teams. National Standards underpin practice and procedure [see *Roles and Responsibilities*].

Getting it Right for Every Child

Getting it Right for Every Child (sometimes referred to as GIRFEC), introduced in 2006, seeks to provide a framework for all services and agencies working with children and families to deliver a co-ordinated approach which is appropriate, proportionate and timely. It is intended to build solutions with and around, children, young people and their families. GIRFEC is underpinned by values and principles that have been developed from knowledge, research and experience. They reflect the rights of children spelt out in the United Nations Convention on the Rights of the Child (1989) and the Scottish Children's Charter (2004). GIRFEC is based on ten core components which together describe a model of practice that has been proven to improve delivery of services to children and young people.

Children and Young People Bill

The Children and Young People Bill will be introduced to Parliament in 2013, paving the way for fundamental reforms to the ways in which children and their families are supported and in which services are provided to them.

The Bill will bring together earlier plans for separate legislation on children's services and children's rights into a single, comprehensive framework. Consultation on this proposed new Bill and consultation in 2011 on the proposed Rights and Children and Young People Bill will be used to determine the detail of the new legislative proposals.

The Children and Young People Bill will cover:

Children's Rights

The Bill will embed the rights of children and young people across the public sector in line with the United Nations Convention on the Rights of the Child; it will impose duties on Scottish Government to further the rights of children and young people and promote and raise awareness of the UNCRC and on the wider public sector to report on what they are doing to take forward realisation of the rights set out in the UNCRC.

The powers of Scotland's Commissioner for Children and Young People will be extended to undertake investigations on behalf of individual children and young people.

Early learning and Childcare

The Bill will improve the availability of high quality, flexible, integrated early learning and childcare.

Getting it right for every child

Legislation will be put in place to ensure that all children and young people from birth up to leaving school have access to a Named Person and that there is a single planning process in place to support those children and young people needing the involvement of a range of services.

Care system

Through legislation it is proposed that the right of young people leaving care to ask for help from a local authority is raised from the age of 21 to 25, that a clear definition of Corporate Parenting is put on statute, that a new statutory 'order' supports the parenting role of kinship carers and that use of Scotland's Adoption Register by local authorities is made compulsory.

10 SUMMARY

The children's hearings system arose out of a set of coherent and rational principles contained within the Kilbrandon Report. In the years since it was inaugurated in April 1971 it has been able to adapt to the many different challenges that have arisen and to changes in society while continuing to deal in a compassionate manner with all children deemed to be in need of compulsory supervision. The move from the Social Work (Scotland) Act 1968 to the Children (Scotland) 1995 enabled principles in the United Nations Convention on the Rights of the Child to be incorporated into the system and these will be strengthened by the Children's Hearings (Scotland) Act 2011 and the proposed legislation outlined above.

Some account was taken in the 1995 Act of the need to comply with articles in the European Convention on Human Rights and developments in legal judgments have further clarified or extended these rights.

Perhaps the most crucial decision of the Court of Session in *S v Principal Reporter and Lord Advocate* is that hearings are independent tribunals. The foundation of the system thus remains stable and healthy so that the process of adapting to changed conditions can continue without fundamental principles relating to the common needs of all children being abandoned.

11 FURTHER READING

HMSO (1964) **Kilbrandon Report: Children and Young Persons, Scotland**, Cmnd 2306.

This document on which the children's hearings system is based remains a fundamental statement of its philosophy and principles. Reprinted in the *Children in Society* series ed. Asquith S, 1995, HMSO, Edinburgh

HMSO (1993) **Scotland's Children: Proposals for Child Care Policy and Law**, Cmnd 2286 Edinburgh

The White Paper which led to the Children (Scotland) Act 1995

Lockyer A & Stone F (1998) ***Juvenile Justice in Scotland: Twenty-five years of the Welfare Approach***. T & T Clark, Edinburgh.

History and analysis of the development of the children's hearings system. (Professor Stone was a member of the Kilbrandon Committee)

Appendix 1

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

Extract of Core Articles

Article 1 (definition of a child)

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2 (non discrimination)

- 1 States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- 2 States Parties shall take all appropriate measure to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3 (welfare a primary consideration)

- 1 In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
- 2 States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
- 3 States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of

safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 5 (role of family and recognition of child’s evolving capacities)

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

Article 12 (child’s right to participate in decision making)

- 1 States Parties shall assure to the child who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- 2 For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Children’s Hearings System specific articles:

Article 18 (parental responsibilities)

- 1 States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
- 2 For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance of parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

- 3 States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19 (protection from abuse and neglect)

- 1 States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
- 2 Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 37 (torture and deprivation of liberty)

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 40 (administration of juvenile justice)

- 1 States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
- 2 To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognised as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) to be presumed innocent until proven guilty according to law
 - (ii) to be informed promptly and directly of the charges against him or her, and if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence.
 - (iii) to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular taking into account his or her age or situation, his or her parents or legal guardians

- (iv) not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality
 - (v) if considered to have infringed the panel law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law
 - (vi) to have the free assistance of an interpreter if the child cannot understand or speak the language used
 - (vii) to have his or her privacy fully respected at all stages of the proceedings.
- 3 States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and, in particular:
- (a) the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law; and
 - (b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
- 4 A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Appendix 2

EUROPEAN CONVENTION ON HUMAN RIGHTS: KEY ARTICLES FOR CHILDREN'S HEARINGS

ARTICLE 3 – PROHIBITION OF TORTURE

No-one shall be subjected to torture or to inhuman or degrading treatment or punishment.

ARTICLE 5 – RIGHT TO LIBERTY AND SECURITY

- 1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - (a) the lawful detention of a person after conviction by a competent court
 - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law
 - (c) before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or a person against whom action is being taken with a view to deportation or extradition.

- 2 Everyone who is arrested shall be informed promptly, in a language which he understands of the reasons for his arrest and of any charge against him.

- 3 Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditional on guarantees to appear for trial.
- 4 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
- 5 Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

ARTICLE 6 – RIGHT TO A FAIR TRIAL

- 1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
- 2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- 3 Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him
 - (b) to have adequate time and facilities for the preparation of his defence

- (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require
- (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses against him
- (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 8 – RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

Everyone has the right to respect for his private and family life, his home and his correspondence.

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except in such accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 14 – PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Child, Family and Society

SECTION 2



In the home for abandoned children they become sad and many die of sadness.
(1760, from the diary of a Spanish Bishop, cited in Spitz 1945)

No child is born a criminal; no child is born an angel he's just born
(Sir Sydney Smith, Professor of Forensic medicine, Edinburgh University 1928-53)

The level of civilization attained by any society will be determined by the attention it has paid to the welfare of its children.
(Billy F. Andrews, MD, 1968)

We cannot begin to improve the lives of disadvantaged and vulnerable children unless we identify their needs and understand what is happening to them in order to take appropriate action.
(Hutton 2000)

To grow up knowing that the adult or adults who care for you have your concerns at the centre of their universe is to be given the psychological equivalent of a million pound jackpot. That certainty of being loved and valued is a security blanket which immeasurably increases your chances of a successful adulthood too. It makes it more likely that you will look at your own future relationships with optimism; that you will expect them to succeed, expect them to be fulfilling.
(Ruth Wishart, Glasgow Herald, March 2003)

Science is demonstrating that neglected and abused children do not have the brain chemistry to take appropriate pro-social decisions.
(Camila Batmanghelidjh, Shattered Lives, 2006)

Many parents suggested that they had established more networks and friendships in the local area through their children than by any other means – via antenatal classes, nursery and primary school, or through their children's friend's families.
(Weller and Bruegel, a British study of families and social capital, 2009)

CHILDREN LEARN WHAT THEY LIVE

If a child lives with criticism, she learns to condemn

If a child lives with hostility, he learns to fight

If a child lives with ridicule, she learns to be shy

If a child lives with shame, he learns to feel guilt

If a child lives with tolerance, she learns to be patient

If a child lives with encouragement, he learns confidence

If a child lives with praise, she learns to appreciate

If a child lives with fairness, he learns justice

If a child lives with security, she learns to have faith

If a child lives with approval, he learns to like himself

If a child lives with acceptance and friendship, he or she learns to find love in the world.

Health Education Board for Scotland, redesigned by permission of parents

Anonymous inc. USA

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1 INTRODUCTION

The twin focus of the children's hearings system is that it regards all children as individuals, and also considers them in the context of their families and communities. This section of the manual will provide basic information about child development and some of the social and economic factors that may influence the lives of children growing up in Scotland today.

Children are referred to hearings as the result of problems and difficulties in their lives. The task of those involved in the children's hearings system is to seek the solutions that best meet each individual child's needs and is in the child's best interests. In making such decisions the welfare of the child is the paramount consideration except in exceptional circumstances when regard must be taken of public safety. In order to do so it is necessary to estimate what the child is able to understand; how past experiences have affected the child; how the child sees the world and what the child needs.

2 CHILD DEVELOPMENT

The concept of 'milestones' is often used in assessing a child's development. Children who fail to meet these milestones at the expected rate give an early indication that something may be going wrong, either in their development or in the way they are being cared for. These milestones are not rigid and children vary in the rate at which they achieve them.

Children are born with different temperaments – the placid happy child, the crying child, the slow to warm child, and each child has different abilities that may influence the care they receive. Some children are noticeably gifted and this can affect their skills and self-esteem, in others these gifts can remain unnoticed and children never realise their full potential. Some children have disabilities, which they are able to overcome; others struggle and fail.

Ages and Stages

Child development, and the way in which children progress through the various stages of this development have been much studied.

Current thinking concentrates on the concept of 'stages' of development, sometimes referred to as 'milestones'. The process of childhood development is seen as one of passing through various stages, each at the appropriate age. Educational provision, for example, is geared to an understanding of these various stages and the changes in the way children view their world as they achieve them.

Problems and difficulties in the child's life and upbringing are sometimes first spotted when the child fails to meet the expected stage at the appropriate age. It must be emphasized, however, that each child is an individual, and children achieve these stages at their own pace

3 CHILDREN'S NEEDS

Children's Needs

Parents are responsible for creating an environment that enables their children to develop physically, intellectually and emotionally. Children are unlikely to fulfil their potential unless their needs are met.

Mia Keller Pringle (*The Needs of Children*) identified clearly the needs that children have for love, security, new experiences, praise and recognition and responsibility. Although first published in 1975, the needs of children have not changed in the interim and the message is as true today as it was then.

For many of the children who come to hearings there has been failure to meet these needs at many levels.

Love and security

The need is met by the child experiencing from birth onwards a stable, continuous, dependable and loving relationship with his parents (or permanent parent-substitutes), who themselves enjoy a rewarding relationship with each other.

First and foremost, this need is met by giving the child the security of stable family relationships where attitudes and behaviour are consistent and dependable; the security of a familiar place; and the security of a known routine. All these make for continuity and predictability in a world in which the child has to meet and come to terms with so much that is new and changing.

When this need [for love and security] is not met adequately, then the consequences can be disastrous later on, both for the individual and for society.

Anger, hate and lack of concern for others are probably reactions to being unloved and rejected. Vandalism, violence and delinquency are not infrequently an outward expression of these feelings.

A child from a discordant home is liable himself to become emotionally disturbed or antisocial.

New Experiences

New experiences are a prerequisite for mental growth as essential to the mind's development as food is for the body.

Some adolescent escapades, which result in crime, are child's play conducted with adult means.

The urban environment is hostile to the young; there is little freedom or safety to explore or experiment, particularly without adult supervision. In seeking – legitimately- for the excitement of new experiences the forbidden, risky or dangerous are liable to acquire an aura of daring and excitement. What may start as a lark, giving vent to high spirits and the desire for adventure can all too easily turn into vandalism and mindless destruction.

Praise and Recognition

Because growing from a helpless baby into a self-reliant adult requires an enormous amount of emotional, social and intellectual learning . . . a strong incentive is needed. This is provided by the pleasure shown at success and by the praise given to achievement by adults who love the child and whom he in turn loves and wants to please.

If this need is inadequately met or remains unsatisfied, then in the long term the effects are destructive of self-respect and of confidence in tackling new situations, tasks or relationships.

Responsibility

How can responsibility be given to the immature and to the irresponsible? There is no way out of the dilemma that unless it is granted, the child cannot learn how to exercise it. Like every other skill, it needs to be practised under adult guidance, which then gradually diminishes during adolescence and adulthood.

The fact that during adolescence many youngsters rebel against parental standards and seek to find their own way of solving problems in no way changes the need for parents to make clear what they regard as desirable or acceptable standards.

The child who is denied opportunities to exercise responsibility will fail to develop a sense of responsibility for himself, for others or for material objects.

From: Pringle MK., The Needs of Children 3rd edition, London, Hutchinson, 1986

ATTACHMENT

It is not the panel members' role to assess or diagnose attachment in hearings. The following notes are given to help understand the terms when used in reports by professionals

The current theories of attachment were largely developed by Mary Ainsworth. Consequently the types of attachment are referred to as 'Ainsworth's Attachment Patterns'. These are categorised as:

- Secure attachment
- Ambivalent – insecure attachment
- Avoidant – insecure attachment
- Disorganised attachment.

Secure Attachment

A securely attached child will approach their carer confident of an unconditional response, certain that needs will be met and that they will be readily consoled. They will separate without anxiety and will respond positively to being reunited.

This type of attachment develops trust, self-esteem and confidence.

Insecure Attachment

Many neglected children demonstrate patterns of insecure attachment behaviour.

These are sub-categorised as:

- Ambivalent attachment, sometimes referred to as resistant attachment, results from a lack of certainty about how carers are going to respond, since they are experienced as unreliable, inconsistent and insensitive. This child both wants and fears intimacy. In order to make any kind of contact, extreme strategies are called for. The child uses angry, demanding, attention seeking behaviour in order to break through the emotional barriers that are being experienced.
- Avoidant, anxious or detached attachment results from the child discovering that if they become upset or distressed it gets them the opposite of what they want and need. They experience the carer as rejecting, interfering and controlling. The child's defensive strategy is to deny distress and strong feelings are blocked out. Consequently the child avoids intimacy and becomes unhealthily self-reliant.
- Disorganised attachment arises when it is the carers who are the cause of the original distress. They may have abused the child in some way or are emotionally totally unavailable, due to mental health problems or substance misuse. Whatever the child does, comfort is not forthcoming. As a result attachment behaviour becomes a confused mixture of angry approaches, indifference, avoidance, withdrawal, dazed behaviour – confusion. The child may also 'freeze physically or psychologically'.

LOSS AND CHANGE: EFFECT ON CHILDREN AND YOUNG PEOPLE

Loss or Change?

A major change in a person's life can, and does, result in the same symptoms as loss. Consequently for the purposes of this section both terms are used.

What constitutes Loss?

Most adults will equate loss with bereavement, this being the major loss that people face in later life. However loss can take many forms both physical and emotional. The table below gives examples of both types. The lists are neither rated nor exhaustive. It is worthwhile contemplating one's own childhood to identify further examples.

Physical Loss (change)	Emotional Loss (change)
parent or sibling dying	new baby or child in the house
grandparent dying	parent losing his/her job
separation or divorce	parent working away from home
moving house	parent misusing drugs and/or alcohol
moving to a new school	parent's mental health issues
health problems (child)	health problems (parent or sibling)
leaving, or being removed from, home	sibling behaviour
parent in prison	
pet dying	

Given that bereavement is relatively rare for children, it is these other types of loss that are most likely to affect children and young people. In a recent survey of 10-14 year olds 1% had experienced the death of their mother and 3% the death of their father. This is therefore a small population and not one that will impact on many children's hearings. It is however useful to have some concept of a child's understanding of death and dying. Experience of a death or other major loss or change will trigger a reaction. It is important for panel members and others involved in the children's hearings system to be aware of the major reactions.

Children's Reaction to Loss

A child or young person's reaction to loss is in three distinct phases:

- Early Grief.
- Acute Grief.
- Integration of Loss.

Children's Needs in Times of Change

There are some general needs that should be met throughout the whole episode of loss. They are shown below:

Need	Response required
<p>Information</p> <ul style="list-style-type: none"> ▪ What's going on? ▪ When is it going to happen? ▪ What's going to happen to me? 	<ul style="list-style-type: none"> ▪ clear and age appropriate messages ▪ the truth – their fantasies are often worse ▪ prompt attention – as soon as possible or early warning where possible.
<p>Explanation</p>	<ul style="list-style-type: none"> ▪ answer questions honestly ▪ if you don't know find out ▪ relate the situation to the child's understanding.
<p>Help to express feelings</p>	<ul style="list-style-type: none"> ▪ use of play, mementoes, photos, etc. ▪ allow to 'act out' sometimes ▪ listen to the child ▪ allow to grieve – feelings are natural, a part of the healing process.
<p>Reassurance</p>	<ul style="list-style-type: none"> ▪ they did not cause the loss ▪ they or others will not die yet, or go away ▪ who will look after them ▪ stability in 'normal' routines.
<p>Help with secondary losses</p>	<ul style="list-style-type: none"> ▪ reduced income ▪ family changes ▪ new responsibilities ▪ adjusting to new home, school, etc.
<p>Support</p>	<ul style="list-style-type: none"> ▪ individually – from <ul style="list-style-type: none"> ○ family ○ friends ○ school ○ professionals ▪ may need family therapy or group work.

RESILIENCE

Children's day to day functioning and their development over time are shaped by the balance between harmful and protective factors in their lives. The association between poor quality insecure relationships in childhood and later social and behavioural difficulties is not inevitable, only more probable. However, there is growing evidence to show that some people who have experienced adverse environments and poor quality relationships in childhood develop reasonably integrated personality structures. This has led to the development of the concept of resilience.

“Successful children who do well despite adversity remind us that children grow up in multiple contexts – in families, schools, peer groups, sports teams, religious organisations, and many other groups – and each context is a potential source of protective as well as risk factors. These children demonstrate that children are protected not only by the self-righting nature of development, but also by the actions of adults, by their own actions, by the nurturing of their assets, by opportunities to succeed and by the experience of success”.

[Masten and Coatsworth 1998]

Resilience is associated with better long term outcomes.

To develop in a healthy way children need:

- 1 A secure base – this includes predictability of care over time and a coherent story of their own history.
- 2 Self-esteem.
- 3 Self efficacy.

Resilience can only be promoted if a child feels safe so this may, in some cases, mean removal from the risk environment. A child who feels *unsafe* will be expending all his/her emotional energy on strategies to keep safe (e.g. in engaging in behaviour which is aimed at mollifying a potential abuser). This may have the effect of delaying normal healthy development.

A resilience model should look first at the strengths within the child and the child's environment and aim to protect and build on them. It seems likely that children will be more resilient to adverse circumstances if they have:

- Supportive relationships with at least one parent.
- Supportive relationships with siblings and grandparents
- A committed adult other than a parent who takes a strong interest in the young person and serves as an ongoing mentor and role model.
- A capacity to develop and reflect on a coherent story about what has happened and is happening to them.
- Talents or interests which can be encouraged and developed.
- Positive experiences in school.
- Positive friendships.
- A capacity to think ahead and plan in their lives.

Children need to believe in themselves and their ability to transcend adversity. This comes in being supported as they negotiate the stages of development. The more they experience success, the more they will develop this self-belief.

Just one person who shows a consistent interest in a child can make a difference.

Panel Members – Tips for hearings

Some questions to consider in reaching decisions in child's best interests:

- What are the things that are going well in this child's life?
- To whom is this child important?
- Who is important to this child?
- Is there a concerned adult outside the home who has very regular contact with the child?
- Has the child a realistic way of contacting this adult when necessary?
- Does the child relate fairly easily to peers of his or her own age group?
- How does the child get on in school socially as well as academically?
- Has the school been briefed adequately on the child's home situation?
- Does the primary care-giver have people he or she trusts and can rely on for help in moments of stress and crisis?

If you do not find the answers to these questions in the reports or other information you receive prior to a hearing, you should be seeking answers during the hearing.

CHILDREN AND PARENTS

Panel members will have a limited role in assessing parents during a hearing, but an understanding of the process will help them to set in context the various reports received prior to the hearing.

The information shown below is based on materials provided by the late Professor Rudolph Schaffer, Emeritus Professor of Psychology, University of Strathclyde.

How Does One Assess A Parent?

Bear in mind:

- **You are assessing that person in relation to the child – not in relation to yourself.** The fact that you like him/her and get on well does not make him/her a “good” parent.
- **Parenting is an extremely complex business.** It involves very many different things. To classify people simply as “good” or “bad” is therefore of little help in arriving at some sort of judgment about them. For that matter, people can be perfectly adequate at one aspect of parenting but not at another.
- **In arriving at some judgment about a parent, don’t be swayed unduly by one piece of evidence.** A mother may lose her temper with the child at the hearing, but that does not make her a “bad-tempered mother” – she may just be nervous in that situation.
- **Beware of sweeping generalisations.** For example, “all only children are spoilt”, “all red-haired people are bad-tempered”, or “all single parent families are incapable of coping”. Assessing people is unfortunately not that easy – you need to start afresh with each individual case.
- **Beware of imposing your own values on others.** What is right for one person or one family may not be right for another. You may disapprove of working mothers/physical punishment/bottle-feeding a two-year old etc., etc., but

normality is different things to different people and encompasses a vast range of differing circumstances.

- **Where possible, don't make quick judgments.** People are awfully complex, and the more we can see a parent on more than one occasion, and the more we can use evidence from others (social workers, teachers, etc.) the better

Some Aspects of Parenting to Look Out For

In assessing a parent it is useful to break down the relationship with the child into various components and to think about each of them. Three of the most important ones are mentioned below, but bear in mind that this is by no means a complete list – on the contrary, you may wish to add many others that you regard as just as important. The ones given here are only to start you thinking:

Love

Does the parent love the child? Perhaps the most obvious thing to ask, but not easy to ascertain and especially so as people show love in many different ways (some are demonstrative, others not, etc.) Important for children because:-

- security comes from being loved
- children themselves learn to love because they are loved.

Remember: the mother is not necessarily the only – and may in some cases not be – the main source of love and security. Fathers, grandparents, aunts and other relatives – any one of them may be the most important person in the child's life, so all the child's relationships need to be explored if one is to get inside the child's skin and see the world from his or her point of view.

Consistency

Young children can only absorb a limited amount: to have twenty parents would be quite impossible for them. They need consistent treatment:

- by not having too many different people looking after them
- by the two parents (or carers) being more or less in agreement about the child's care

- by each parent/carer being consistent in his/her demands.

Sensitivity

Each child is an individual: what works with one does not necessarily work with another. One can't bring up children by recipe.

In addition, children change with age: what works at one stage of development does not necessarily work at another.

Parents, therefore, need to adapt to the individuality of their child. Their demands should be realistic in terms of the personality, ability and age of the child.

Insensitive treatment leads to trouble.

Examples of questions to ask oneself about a parent:

- Does the parent feel love for this child?
- Can the parent act as a "haven of safety" for the child?
- Is the parent realistic in his/her appraisal of the child's needs for dependence on the one hand and independence on the other?
- Is the parent consistent in the demands made on the child?
- Do the parents agree, broadly speaking, on how to bring up the child?
- Can the parent adapt to the peculiarities of this particular child?
- Is the parent realistic in the demands made on the child?

EARLY INTERVENTION

The following are extracts from "Early Intervention: Good Parents, Great Kids, Better Citizens" by Graham Allen MP and Rt. Hon Iain Duncan Smith MP second edition, published May 2009 by The Centre for Social Justice.

Introduction

There is only one criterion which endures: 'does your approach attack the intergenerational nature of underachievement?' Policies which do not meet that criterion, however well-intentioned or well-designed, are not Early Intervention.

What Dysfunction Costs

Speaking at the launch of 'Early Intervention City' in Nottingham, Paul Ennals, chief executive of the National Children's Bureau, said:

In some ways everyone knows Early Intervention is important. It's cheaper. It's more effective and it is less likely that things go wrong. It saves money in the long run. If you have a young man in drug rehabilitation it costs £250,000 a year, but the cost of family support that makes it less likely that he needs it costs only a fraction of that.'

He added:

A programme like this requires a 20-year perspective because for money invested today, while it will see some short-term gains, most of the gains will be in 10 to 15 years and that takes political courage.

He expected that for every £1 invested in such services, the Government would save £7 in the future.

Drunkenness and Drug Use

We are living through the death of civility ...Today, it is commonplace to encounter road rage, muggings, street crime, drunkenness, lager louts, hoodies, yobbishness and laddishness. Teachers are attacked in the classroom. Nurses encounter violence from patients.the liberal revolution of the Sixties, which separated morality from law, is leading us to a new form of barbarism... The view that 'it's legal, so I can do it' is destroying the fabric of social harmony. Manners are disappearing, along with courtesy and shame.

Sir Jonathan Sacks, Chief Rabbi

The Effects of Unresolved Trauma

Behind the drug and alcohol figures is the emergence and growth of a range of addictive behaviours and practices. One in fifteen children and adolescents now regularly self-harm e.g. by cutting and blood-letting. Bruce Perry provides a scientific explanation for the phenomenon of self-mutilation:

When they mutilate themselves, they can induce a dissociative state, similar to the adaptive response they had during the original trauma. Cutting can be soothing to them because it provides an escape from anxiety...people can become so disconnected from reality that they move into a dreamlike consciousness...linked with the release of high levels of opioids, the brain's natural heroin-like substances that kill pain and produce a calming sense of distance from one's troubles.

Supporting youngsters whose tragic early experiences have led them to find such extreme coping devices would not only help them lead better lives, it would also improve their likelihood of being good parents to their own children.

Unrecognised “Benefits” Of Some Dysfunctional Behaviour

What are the drivers behind the ‘delinquent drinker’ phenomenon? The ACE Study indicates that people who had high levels of adverse childhood experience are inclined to use such psychoactive substances as nicotine, alcohol, prescription and street drugs in attempts to improve how they feel, even though they know these things are bad for them. As Felitti states in his book:

*it's hard to get enough of something that **almost** works*

Nicotine, alcohol and street drugs (and even self-mutilation) can help people escape emotional pain arising from patterns that grew out of early adverse experience. In studying smokers, the study found a graded increase in the likelihood of children having suffered adverse child experience, amounting to a 250 per cent greater likelihood of smoking as adults in those with scores of six or more (adverse childhood experiences) compared with those who scored zero. For alcoholism the increased likelihood is 500 per cent and for injection of street drugs it is 4,600 per cent.

Dr Felitti stresses the profound implications of these figures in terms of the psychoactive benefits of the substances involved, when the user has suffered early damage and is carrying its effects to the extent that relief is sought in some other form. If we do not want people to feel compelled to turn to such ultimately destructive

sources of comfort, their early years need to be sufficiently free of adverse experiences to protect them from the need.

This analysis is echoed by Bruce Perry in his book “*The Boy who was raised as a Dog*”. There he says:

Research on addicts and alcoholics finds dramatically increased numbers of early traumatic events, as compared to those who have not suffered addictions... Brain scans of those who've experienced trauma often reveal abnormalities in areas that also show changes during addiction. It may be that these changes make them more vulnerable to getting hooked.

Primary Intervention

Detective Chief Superintendent John Carnochan, head of the Scottish Violence Reduction Unit described the strategy more graphically still:

If people keep falling off a cliff, don't worry about where you put the ambulance at the bottom. Build a fence at the top and stop them falling off in the first place.

The Visible Versus the Invisible Threat

The intergenerational nature of this is underlined by the estimate that 30 to 40 per cent of abused or neglected children (versus two to three per cent of the total population) go on to abuse or neglect their own children or, as Professor David Farrington puts it:

Antisocial children grow up to become antisocial adults who go on to raise antisocial children.

CLASSIC STUDY FOR EFFECTIVE INTERVENTION

Dunedin Study

The development of one thousand children born in Dunedin, New Zealand in 1972 was monitored from birth. When these children were three, nurses (who knew nothing about their backgrounds) assessed them, by watching them at play for 90 minutes, to identify those they judged could be at risk. At follow-up at age 21, it was found that the ‘at risk’ boys had two and a half times as many criminal convictions as

the group deemed not to be at risk. In addition, 55 per cent of the offences were violent for the 'at risk' group, as opposed to 18 per cent of those not at risk, and 47 per cent of those in the 'at risk' group were abusing their partners, as opposed to under 10 per cent of the other group.

We urge the UK Government to commission a long-term study, similar to the Dunedin one, using cohorts of children with and without early intervention to inform the policy as it develops.

The Developing Brain 0-3 and What It Needs To Mature

The structure of the developing infant brain is a crucial factor in the creation (or not) of violent tendencies, because early patterns are established not only psychologically but at the physiological level of brain formation

Human infants arrive ready to be programmed by adults. From our first moments of life we are tuned into the facial expressions of those around us, as can be seen from the infant reflex to mimic. The problem is that this wonderful advantage turns into a disadvantage when it is met by the long term lack of positive expression on the nearest face, that of the primary caregiver. When this most basic need for a positive response is not met, and when a tiny child does not feel secure, attached and loved, the effect can be lifelong. Neuroscience can now explain why early conditions are so crucial: effectively, our brains are largely formed by what we experience in early life.

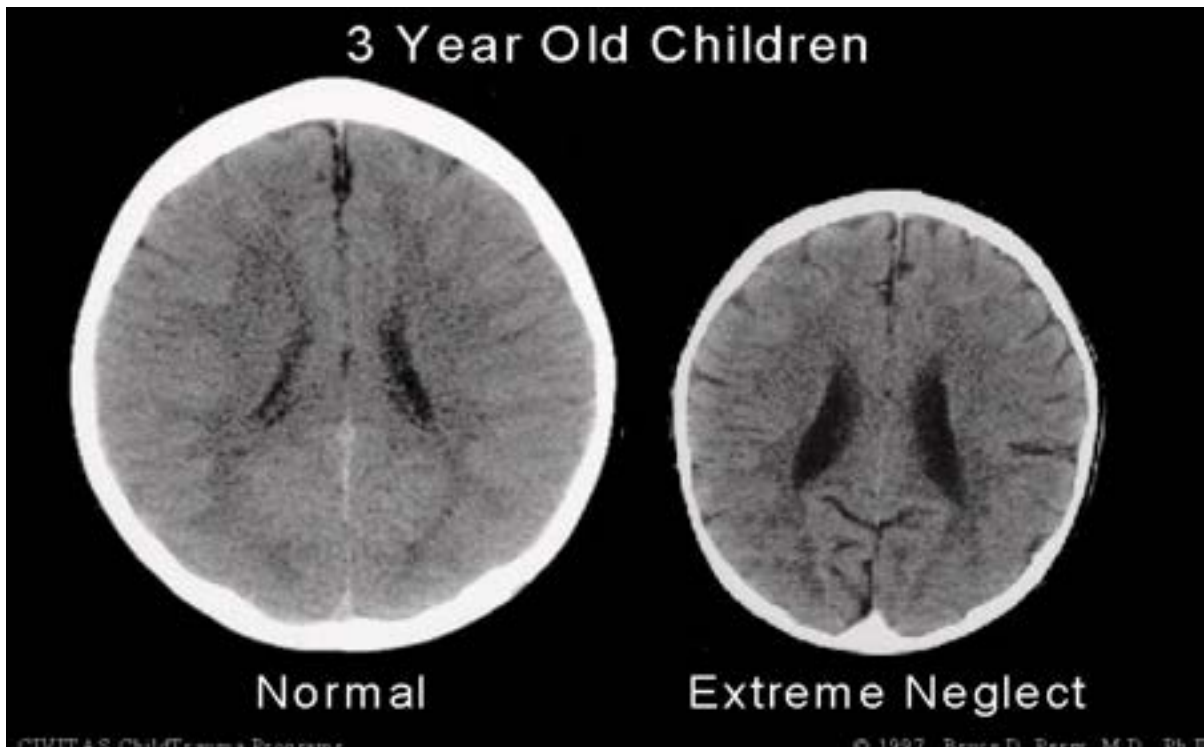
Infant Trauma

Bruce Perry records the case of a four-year-old girl who, despite massive medical attention and intervention, could not thrive and weighed just 26 lbs. As a child this girl's mother had been deprived of the early touch and affection necessary for the proper growth of her own brainstem, midbrain and limbic systems. She had been lacking in the 'natural' instinctual response to her infant as well as ignorant of the necessity of touch, eye-gaze and rocking. However, having been fostered in a stable, loving home from the age of five (during the growth of the cortical system of her brain) this woman was moral and dutiful towards her baby – which was fortunate because she constantly sought help. Sadly, until the infant was four, none of the doctors suspected a parenting reason for her failure to thrive and continued to seek a biomedical solution. When the truth eventually came out (after Perry observed

parent/infant interaction), the child and mother did very well after moving in with a particularly 'motherly' fosterer, with whom they spent a year. On the same diet as in the hospital, the four-year-old's body weight increased by 35 per cent in the first month in the nurturing emotional environment.

The disadvantage of the human brain's plasticity mentioned earlier is that it renders it acutely vulnerable to trauma. If a child's early experience is predominantly characterised by fear and stress, then the neurochemical responses to fear and stress *become* the primary architects of the brain, for the simple reason that these are the responses most frequently triggered. The stress hormones, such as cortisol, that are elevated during trauma, flood the brain like acid. One result is the formation of significantly fewer synapses (connections). Specialists viewing computed axial tomography (CAT) scans of the key emotional areas in the brains of abused or neglected children have likened the experience to looking into a black hole.

The brain of an abused or neglected child is significantly smaller than the norm: the limbic system (which governs emotions) is 20-30 per cent smaller and tends to have fewer synapses; the hippocampus (responsible for memory) is also smaller. Both of these stunted developments are due to decreased cell growth, synaptic and dendrite density – all of which are the direct result of much less stimulation (e.g. sight, sound, touch) than is required for normal development of the brain. The images shown on the next page have been taken from studies conducted by researchers from the Child Trauma Academy (www.ChildTrauma.org) led by Bruce Perry. They illustrate the negative impact of neglect on the developing brain. The CAT scan on the left is from a healthy three year old child with an average head size. The image on the right is from a three year old child following severe sensory deprivation neglect in early childhood whose brain is significantly smaller than average and has abnormal development of cortex (cortical atrophy) and other abnormalities suggesting abnormal development of the brain.



Even if actual abuse is not present, the combined stressors of poverty appear to have a significant impact. A study of educational achievements from infancy to age 26 found significantly different development scores in the three socio-economic status (SES) groups studied.

At the start of the study, when the participants were 22 months old on a scale of one to 70:

- High SES infants averaged approximately 57
- Medium SES group averaged approximately 48
- Low SES group approximately 43.

This snapshot provides a chilling glimpse of the handicap suffered by our most deprived children in the lowest socio-economic group.

Significance of “Sensitive Windows”

During the first three years of life there are sensitive windows of time when specific learning takes place and the brain hones particular skills or functions. Certain elements of human capability including vision, language and emotional development, occur in maturity ‘spurts’ during these sensitive times. If the opportunity to practise a skill is missed during the window relating to that skill, a child may either never learn it or its learning may be impaired.

To the best of current knowledge, the sensitive window for emotional sensitivity and empathy lies within the first 18 months of life, and these ‘skills’ are shaped by the prime caregiver.

The 18-month theory is reflected in Bruce Perry’s story of a boy who was routinely abandoned by his nanny from morning to night for the first 18 months of his life before his working parents found out. By age 14, despite having been well cared for in the interim and a great deal of money spent on trying to treat his various disorders, he was:

rocking and humming to himself, friendless and desperately lonely and depressed: a boy who didn’t make eye contact with other people, who still had the screaming, violent temper tantrums of a three or four-year-old; a boy who desperately needed the stimulation that his brain had missed during the first months of life.

He responded very well to the physical touch and rhythm-building treatment appropriate to the age he was when the neglect took place.

The Crucial Elements of Early Attunement and Empathy

The child’s first relationship, the one with the primary caregiver, normally the mother, acts as a template that permanently moulds the individual’s capacity to enter into all later emotional relationships

Attunement takes place when the parent and child are emotionally functioning in tune with each other and where the child’s emotional needs for love, acceptance and security are met. Without satisfactory early attunement to the primary caregiver, the development of empathy can be greatly impaired.

Empathy entails the ability to step outside oneself emotionally and be able to suppress temporarily one's own perspective on events to take another's. It is present when the observed experiences of others come to affect our own thoughts and feelings in a caring fashion. When a parent consistently fails to show any empathy with the child's expression of particular emotions, the child can drop those emotions from his or her repertoire. Empathy is also perceived as a prime requirement for a citizen to be of the law-abiding 'self-regulator' type. Empathy is a powerful inhibitor of the development of propensity to violence. Empathy fails to develop when the prime caregiver fails to attune with an infant. Absence of parental attunement combined with harsh discipline is a recipe for violent, anti-social offspring.

Early Damage

A large part of the difference in the empathic capabilities which children develop comes from the way they are disciplined. Children are more empathic when discipline includes clearly drawing attention to the distress their behaviour causes to someone else. Empathy is shaped by how children see others responding to distress. By imitating the adult response, children develop a repertoire of empathy – or its absence.

More child abuse occurs in the first year of life than in any other. UK rates of abuse are over three times the average for Norway, Sweden and Denmark and ten times the reported average for Spain, Greece and Italy. Research shows that the worst single trigger for abuse is parental overestimation of what infants can understand. It is not unusual for infants to be expected to respond and perform at levels appropriate for those *months beyond their age*, and to be punished for their 'perversity' when they disappoint these expectations.

The early years are so critically important to the child's later social development that pathways to violence are often laid down by the age of two or three. Three-quarters of aggressive two-year-olds are still aggressive at age five. Untreated early-onset aggression can establish a lifelong tendency to be aggressive and the earlier aggression is established, the worse the long-term outcome tends to be.

Discouraging aggression in schoolchildren requires that corrective action begin long before they are in school.

Lack of Attunement

Regrettably, for many parents attunement either does not come 'naturally' (because they did not receive the benefit of it themselves), or is disrupted by postnatal depression, domestic violence or other severe stresses. If a child does not experience attunement, their development is retarded, and they may lack empathy altogether.

Bruce Perry records the history of a 'cold-hearted' 16-year-old boy who raped, murdered then viciously kicked two young girls (It was the blood on his boots that made a family member suspicious enough to call in the police.) The mystery in the case was that both parents were very respectable and decent and his older brother well-adjusted. Investigation of the murderer's past uncovered the fact that his mother (who was of low intelligence) had found it difficult to cope with a demanding infant without the extended family support she had received with her first child (because the family had moved between the births of her two sons). She had coped by taking her four-year-old out all day, every day and leaving the baby unattended apart from the bare minimum involved in feeding and changing him. No bond of attunement was ever formed between them and this accounted for how two small boys in the same family could turn out so differently. The callousness of the post-mortem kicking is a chilling portrayal of the boy's lack of empathy. No sign of remorse was ever given: when he was asked two years later what he would do differently, if he had the time over again, his answer was:

I don't know. Maybe throw away those boots.

THE RATIONALE FOR INTERVENTION: TO MAKE EVERY CHILD'S FIRST THREE YEARS THE BEST POSSIBLE

The subject of intervention is sensitive because it goes against our cultural tendencies. Our historic approach has been that pre-school child-rearing is the exclusive province of the parents (or other carers), unless there is a highly visible level of neglect or maltreatment.

Just as medical research into the effects of smoking paved the way for a cleaner and safer public environment, similar effects should flow from the body of sound research we are drawing from here. It shows that the way children are treated in their first three years has a direct bearing on whether they grow up to be pro- or anti-social, adjusted or dysfunctional, peaceable or violent, healthy or unhealthy. In addition to our legal, ethical and moral obligations to our helpless young, we now know that 'minding one's own business' and 'turning a blind eye' to all but the worst of parental failings is likely to carry a high price later – both for the children and for society. We also know that providing infants with what they need will make society not only safer and more functional, it will also produce happier, healthier citizens with higher IQs who are consequently more likely to be assets than liabilities. This new knowledge must make giving our infants the best possible experience a social imperative rather than the luxury or desirable option it has previously been seen to be.

Financial Benefits

A report by the Institute of Psychiatry contrasted the estimated £70,000 per head direct cost to the public of children with severe conduct disorder with a £600 per child cost of parent training programmes. To include indirect costs such as impact of crimes or the costs to victims would multiply this £70,000 an estimated seven-fold. The financial case for Early Intervention is becoming overwhelming and as we show later, even if a government were unconcerned about breaking the intergenerational cycle of underachievement, it is highly likely to find the massive savings of Early Intervention irresistible.

Early Intervention investment is massively cheaper than late intervention, as well as being much more effective. For example, the costs of comprehensive drug and

alcohol education for every 11-year-old in Nottingham would be seriously lower than meeting the costs of a dozen people on drug rehabilitation, each of which costs around £200,000 per year and most of whom will re-offend. Or suppose that we help a young mother and a toddler with a £1000 worth of health visiting at the time she and her baby need it most: that makes more sense than waiting 16 years in order to pay £230,000 to incarcerate that baby in a young offenders' secure unit for a year when he has gone astray.

Conclusion so far

We are clear that while 0-3 may be the ultimate target, it is the 0-18 who are the agents through which we reach that target. Social and emotional capabilities, especially for empathy, are a significant antidote to anti-social behaviour, including violence. By far the most effective way to develop this is by receiving it from parents, especially in the first three years of life. Yet parents who did not receive effective social, emotional and empathic behaviour themselves can find it impossible or very difficult to pass this on to their children. This explains our emphasis on ensuring that 0-18s are 'child ready' rather than narrowly focusing on remedial action alone for the 0-3s.

However, we have focused on a significant and effective intervention point for stemming the 'flow' of dysfunction. It has emphasised the need for young children to be in relationships characterised by attunement and in environments fostering empathy. Achieving this requires reaching into the most private realm of a citizen's life, the emotional world they share with those around them and especially with their very young children. We must face up to this problematic aspect of relevant and effective interventions, if we believe that every child matters and that the welfare of children is paramount.

A MENU FOR HELPING THE EARLY INTERVENERS: 0-18

After reviewing and identifying programmes that fulfil most standard criteria and score highly on delivery, we believe that a small number – we suggest six – must be specified as the foundational elements of an Early Intervention strategy. In other

words, these are the minimum requirements for a policy framework for those aged 0-18 aimed at interrupting the intergenerational cycle of disadvantage.

Our suggested foundational programmes are:

1. A prenatal package.
2. Postnatal (Family/Nurse Partnership).
3. Sure Start Children's Centres.
4. Primary school follow-on programmes, focusing on parenting support, language, numeracy and literacy, and the development of children's social competences.
5. Anti-drug and alcohol programmes.
6. Secondary school pre-parenting (i.e. pre-conception) skilling.

1. A Prenatal Package

The inspiration for a prenatal package comes from Sweden but also from our own experience in the UK with the involvement of midwives in prenatal care. Sweden has long been regarded as an exemplar of prenatal practice. This is wholly separate from the help given to the mother once the child is born. Sweden has an extensive 'Mothercare' system in which public health organisations interact with the expectant mother from the moment pregnancy is confirmed. The objective is to provide the fullest support to all expectant mothers with extra emphasis on those who need additional support. This is a critical intervention, not least since many of the hard-to-reach individuals who are, at any other time, most resistant to public authority will respond when pregnant to a friendly and helpful midwife or health visitor who can then open the door to others later who may help, for example, with training or education. To put it in economic terms, it is the best investment opportunity in our human capital: all later investments are more expensive, riskier and give diminishing returns.

2. Postnatal (Family/Nurse Partnership)

The Nurse Family Partnership Home Visiting programme (NFP) was set up by Professor David Olds at the University of Colorado to replicate programmes for low-income mothers having first babies. The programme is committed to producing enduring improvements in the health and wellbeing of low-income, first-time parents

and their children. It bridges the period of pregnancy and up to two-years old. Pregnancy outcomes are ameliorated by helping women practice sound health-related behaviours, prenatal care, improving diet, and reducing the use of cigarettes, alcohol and substance abuse. Children's health and development are improved by helping parents provide responsible and competent care for their children. Families' economic self-sufficiency is improved by helping parents develop a vision for their own future, plan future pregnancies, continue their education and find jobs.

Home visitors are highly educated registered nurses, who receive more than 60 hours of professional training from the NFP Professional Development team. Nurse Home Visitors and families make a 30-month commitment to each other, following which an average of 33 visits are made per family. Visits begin during pregnancy (no later than at 28 weeks of gestation) and continue through the first two years of the child's life. The programme is targeted to support 'at risk' families and specific training is given in supporting parental behaviour to foster emotional attunement and confident, non-violent parenting. The visits last, on average, 75-90 minutes per family and there is a case load of about 25 families per nurse.

By contrast, typical UK health visitors are rarely able to afford more than 20-30 minutes per visit because their case loads are as high as 240 families.

The Nurse Family Partnership is the most rigorously tested programme of its kind. Olds conducted randomised controlled trials in Elmira, New York (1977); Memphis (1987) and Denver (1994). Research demonstrated that NFP mothers are less likely to abuse or neglect their children, have subsequent unintended pregnancies, or misuse alcohol or drugs; and they are more likely to stop needing welfare support and to maintain stable employment.

This US-inspired initiative which helps young parents give their children a healthier start in life is to be introduced in a further five health board areas, including Glasgow, by 2013.

Health Secretary Nicola Sturgeon has asked NHS boards to identify further localities that would likely benefit from the Family Nurse Partnership (FNP) programme, which

provides support for first-time mums under the age of 20. Under the initiative - which is already supporting 440 clients in NHS Lothian and NHS Tayside - family nurses visit expectant mums every one or two weeks during pregnancy and throughout the first two years of their baby's life, offering guidance on child development, preventative health measures, parenting skills, breastfeeding, better diet information and support for mothers looking to continue in education and employment.

Ms Sturgeon said:

Intervening at the earliest possible opportunity to support those in our society who are most in need is the key to improving Scotland's health. That's why the Family Nurse Partnership is an exciting opportunity for health boards in Scotland.

I have seen for myself how the FNP is making a valuable difference to the lives of families. The programme is helping to give children healthier and happier futures, working with young families to improve prenatal health and reduce child neglect.

We want to see the kind of support that the FNP provides expanded in Scotland ... put the resources in place to support implementation of the FNP in five new boards, including Scotland's largest city Glasgow, between now and the end of 2013.

3. Sure Start and Children's Centres

The pre-school years are the next stage of the intergenerational cycle. Sure Start Children's Centres are a one-stop shop for families and children under five years of age. They offer easy access to a range of services including early years learning, childcare, family health services, and advice and support for parents. They help to promote parents' ability to play with their children and develop their language and readiness to learn. This helps address the issues referred to in Iain's [Iain Duncan Smith] introduction on 'children who are not stimulated and sit in front of the TV interminably'. A recent independent evaluation report found that Sure Start was having a positive impact on the lives of children and families. 2,906 Children's

Centres had opened in England as of the end of March 2008. By 2010 there will be 3,500 Children's Centres, one for every community.

These provisions sit alongside the entitlement to a free nursery place for every three- and four-year-old from which children are today benefiting.

This is one obvious area where we need to achieve and embed an all-party consensus on Early Intervention and it is important that all parties commit to maintaining spending on Sure Start at its current level in real terms while subjecting such spending to rigorous review to ensure value for money. [*Note: in Scotland Sure Start has been replaced by the Early Years Framework*]

4. A Primary School Package

A statutory framework about the early years from birth to five (Early Years Foundation Stage) is now in force, but because the UK uses an age-based, rather than a grade-based system, many children start off failing from the first day at school.

This situation has to be addressed by an earlier intervention in UK primary schools for those children who need it. Other countries recognise this problem: for example in the USA, 14 per cent of children were a year older than their class mates on starting school. In areas of chronic school unreadiness this concept should now be seriously considered and piloted in the UK. It is commonplace in Switzerland, Hungary, Germany, USA, Australia and Sweden. In Switzerland, an additional year may be spent in kindergarten, or in a 'double' first year primary class, with a smaller class size. One of the Swiss kindergarten's prime functions is precisely this early diagnosis of incapability and a decision on its optimum resolution.

In the UK local education authorities should be allowed to choose to operate such a system so those areas with lower than average school attainment and poor social/emotional capabilities resulting from inadequate preparation in the early years of life can put this right at the very beginning of eleven, soon to be thirteen, years of education, rather than seeking ever more desperate and expensive remedies as school years proceed. School-entry tests of a child's speech abilities, perception,

skills, ability to understand numbers, quantities, motor skills, attitude to work, concentration, memory and social conduct are normally carried out in Germany, for example, by a school doctor.

To imagine that a central *diktat* pushing children into school when they are not ready is in any way of helping the child exemplifies a 'one size fits all' attitude, which fails to recognise the depth of some children's incapability. This must be put right at the easiest time in a child's life to do so, ideally before school starts.

If every child really does matter, then every three or four year old child should have a professional assessment to ensure that they are 'school ready'. If they are not, then help should be given at that point, including waiting a year to start school, in order to save years of remedialism at school.

As with all other interventions it is part of the package and not a one-off remedy. There is considerable evidence, to show that the benefits of early support provided in the 0-5 age range can fade if they are not consolidated in the primary school years. Getting the basics of language, literacy and numeracy right in these years is essential, as is ongoing support for parents and educational measures to further develop children's social and emotional competences.

The actions taken by a school to welcome and engage its parents can significantly improve the home learning environment, and it is important to supplement any literacy and numeracy strategies with parental involvement. We know that parents typically feel a stronger sense of connection with primary schools that they do with their child's secondary school. If we want parents to get involved in their child's education, it is important to start early. However, it can be incredibly difficult to engage hard to reach families in areas of high social deprivation. That is why the full circle of interventions is a key factor in breaking the cycle of disadvantage and underachievement.

5. Anti-Drug and Alcohol Programme

Even if primary school and any Early Interventions have been successful, the key care and maintenance issue which requires serious intervention concerns drugs and alcohol. There are a great number of schemes around to rehabilitate substance abusers and the overwhelming majority of funding goes into rehabilitation rather than preventative education. Once again, the big public bureaucracies have enormous budgets to intervene late in the 'stock' of problems and little or nothing to choke off the 'flow'. We need a much wider and deeper educational effort to stop the supply of young people into drug and alcohol abuse in the first place. There are dozens of education schemes and the Government should now agree one model scheme, which should be adapted for use everywhere.

6. Secondary School Pre-Parenting Skills

Just as being 'school-ready' is a milestone for a pre-schooler, so being 'child-ready' is vital for the teenage years, especially in areas of disadvantage where parents may not pass such knowledge on. The SEAL [Social and Emotional Aspects of Learning] programme now developing in secondary schools is also intended to make a significant contribution to pre-parenting skills, in this case for teenagers. In order to become the good parents of the future, young people need to develop a set of skills that include how to make and sustain relationships, tolerate frustration, communicate effectively, manage conflict, and demonstrate empathy. These skills and qualities are as important as knowing about the technical aspects of reproduction, contraception and caring for infants that have traditionally formed the officially transmitted body of knowledge in this area.

Young people also need to develop an understanding of what it is like to build and sustain a relationship, to have a family and look after a small child, of how babies and children grow and develop, and how parents can best promote this development. This learning is particularly critical, as for those who may not have been able to internalise role models of effective parenting as a result of their own upbringing.

"There are no quick fixes, no "one size fits all"; we need an integrated approach that is shared by people across the political divide."

Iain Duncan Smith

4 CHILDREN'S RIGHTS

For children, part of the process of growing up is the gradual acquiring of rights and responsibilities. Most people can remember when they weren't allowed to do something because they were too young. But sometimes it seems as if society can't make up its mind about what it means to be a child and there is no rhyme or reason behind the different age limits that are set.

In different parts of the world there are huge variations in attitudes to children and to rights accorded to them.

The ***United Nations Convention on the Rights of the Child (UNCRC)*** was formally adopted by the UN general Assembly in 1989 and ratified by the UK in 1991. It sets minimum international standards relating to children's civil, political, economic, social and cultural rights.

The ***European Convention on Human Rights (ECHR)*** was ratified by the UK in 1951 but was not formally adopted into UK law until the introduction of the Human Rights Act in October 2000. ECHR affords rights to all and does not specifically afford rights to children. (See History & Principles.)

Views about children have changed over time. In 19th century Britain, very young children were employed in factories and little boys were used as chimney sweeps because they could climb into narrow spaces. Education was not universal nor considered necessary. Children were expected to be seen and not heard. Bad behaviour was dealt with by severe physical punishment.

Now strict labour laws control the hours and conditions of children's work. Corporal punishment is no longer permitted in schools but there is still debate about whether it should be illegal for parents to hit their children. Children's rights to instruct solicitors and to refuse consent to medical treatment are now recognised in law. The principle is gradually becoming accepted that systems and services, such as law, the health service, and residential care and so on, should be adapted for

children rather than the other way round, though in many cases there is still a gap between principles and practice.

Market forces have recognised children and teenagers as consumers with the right to choose their own styles of dress and entertainment. At the same time there has been a gradual shift towards recognising the rights of children to make choices and to express views about other aspects of their lives. However, the powerlessness of children to do this in certain situations, particularly where they are being abused or bullied has also been realised. Agencies such as the Scottish Child Law Centre, ChildLine and Who Cares? offer advice to children and young people, inform them of their rights and help them to make their voices heard.

The Children's Hearings (Scotland) Act 2011 stresses the idea of parental responsibilities towards children rather than rights over them. The importance of seeking and taking into account their views is enshrined in the Act. The hearings system has a crucial part to play in putting these principles into practice. It is important that all involved in the hearings system protect the rights of children, whilst recognising the rights of others.

Children's rights embodied in the Act are the right to:

- be treated as an individual
- have a view
- have that view taken into consideration
- protection from all forms of abuse, neglect or exploitation
- family life whenever possible
- have any intervention fully justified
- attend their own hearing
- know what decisions are being made and why.

Children's Rights and Responsibilities

AGE	RIGHT / RESPONSIBILITY to:
From birth	have a bank account; be employed as an actor / actress – with a licence; be referred to a children's hearing (on care and protection grounds); make a complaint if being discriminated against on the grounds of race, colour, ethnic origin or sexuality; make a complaint against the police.
3	receive a place in a nursery class.
5	start to receive education; be given alcohol in private at home; pay a child's fare on public transport; go to a U / UC film – although the manager can refuse admittance.
7	take money out of a Giro account; go to a 'U' certificate film.
8	be considered capable of committing an offence – in England would have to be 10 and 14 in Germany. Between the ages of 8 and 12, offences will not normally be dealt with by the court; go to a PG (parental guidance) film.
12	buy a pet; give consent to or refuse adoption; make a will; instruct a solicitor, provided it is understood what is involved; register as an organ donor without parental consent; be considered to have a view to express in legal proceedings; pay full fare on scheduled flights – charter flights can be different; apply to the Child Support Agency; make a freedom of information request to a public body.
13	get a weekday job (2 hours only); a Saturday / Sunday job between 7 a.m. and 7 p.m.; join a social networking site.

- 14 go into a bar (if the owner does not object) but cannot buy drink; own/ borrow an air rifle – but must be supervised by someone over 21 if in public; be responsible for wearing a seatbelt in a car or bus.
- 15 use a shotgun – if supervised by someone over 21.
- 16 leave school; leave home with parental consent unless leaving a neglectful or abusive situation; get married; change name without parental consent; consent to homosexual relationship (but not with someone in a position of trust); pay full fare on public transport; consent to sexual intercourse; get a skin piercing without parental consent; consent to or refuse medical treatment (this may be at an earlier age if medical professionals believe there is an understanding of the consequences); buy or be given a drink (not spirits) with a meal at the manager’s discretion; buy liqueur chocolates; get a full time job – pay income tax and national insurance and get a national insurance number; join a trade union; claim some benefits; get a licence for a moped, tractor; get a glider pilot’s licence; buy premium bonds, lottery tickets; open a Giro account; enter a legal contract; apply for a bank account, mortgage, passport; be legally responsible when babysitting (though it is not illegal to leave children with someone under 16 – parents would be held responsible if something untoward happened); join the armed forces with parental consent (but will not be allowed on active service until aged 18); be a community councillor (in some areas); be dealt with in the district / sheriff court; be sent to a young offender’s institution.
- 17 get a licence to drive a car / motor cycle; apply for a firearms certificate; apply for a street trader’s licence; hold a pilot’s licence; leave home without parental consent; give blood.

- 18 vote in an election; stand for election as a local authority councillor, an MSP, an MP; claim income support; get tattooed; place a bet; buy alcohol; drink alcohol in a pub; buy cigarettes and tobacco; serve on jury duty; see any film; drive a lorry (up to 7.5 tonnes); carry a donor card; get a credit card; buy fireworks; apply for a mortgage, own houses and land.
- 21 stand for election as an MEP; drive any vehicle; supervise a learner driver (if a full driving licence has been held for three years); obtain a liquor licence; run a betting shop; be sent to prison.

Main source: Scottish Government website “at what age can I?....”



CONVENTIONS AND RIGHTS

The United Nations (the UN) was set up to make the world peaceful and fair. A convention is a set of rules that countries agree to abide by.

UNCRC

(United Nations Convention on the Rights of the Child)

- Apply to every child from birth to 18 years.
- The Scottish Government is obliged to try its best to ensure these rights happen here.
- As well as the UNCRC children and young people can claim rights under ECHR (European Convention on Human Rights).
- To ensure that children's rights are kept to the forefront of everyone's mind, they have appointed a Commissioner for Children and Young People.

What it says about ...

Freedom, Fairness and Having a say

- Children have the right not to be treated unfairly because they are children.
- Children have a right to expect decisions made for them are the best for them.
- Children have the right to their say in any decisions which affect them.
- Children have a right to a name and to belong to a country.
- Children have the right to find out things and express themselves provided it does not hurt anyone else.
- Children have the right to meet together and when they do not abuse the rights of other children.
- Children can believe and think what they like.
- Children can follow any religion.
- Children have the right to privacy – their letters, diary and phone calls should be private to them.
- Children have the right to seek information freely but be protected from harm.
- Children have the right to speak their own language if they come from a minority group.

- Children have the right to practice their own religion if they come from a minority group.
- Children have the right not to be treated cruelly.

Being healthy

- Children have a right to life.
- Children have a right to be healthy.
- Children have a right to have good care by adults who care for them.
- Children have a right to care and support if they have a disability so they can live a full and independent life.
- Children have a right to medical care if ill.
- Children have a right to have enough money in their family to be properly cared for and to be healthy.

Education and things to do

- Children have the right to an education.
- Children have a right to play and join in other activities.
- Children have a right to be involved in art and cultural activities.
- Children have a right to education which should develop talent.
- Children have a right to learn to care for other people and for the environment.
- Children have the right to find out things and say what they want so long as it doesn't hurt other people.

Family life and being cared for

- Children have the right to know who their parents are and be cared for then if this is possible.
- Children have the right to never be hurt, abused or neglected by a person looking after them.
- Children have the right to be brought up by their own parents if possible who should do what is best for them and listen to their opinions.
- Children have the right to contact with both parents if they do not live together, unless it might be harmful.

- Children have the right to be living together as a family and live in the same place if the children and families live in different countries.
- Children have the right to respect for their religion, language and culture by their carers if they live away from their parents.
- Children have the right to have a review of the situation and have a say in where they are staying if they live away from their parents.

Being safe and protected

- Children have the right to be protected from getting involved in making, taking or selling harmful drugs.
- Children have the right to be protected from sexual abuse.
- Children have the right to get help to recover if they have been harmed or abused.
- Children have the right not to be kidnapped or sold.
- Children have the right not to be treated cruelly – if they break the law or are accused of breaking the law they should get the help they need to understand what is happening and be able to keep in touch with their family.
- Children have the right not to do work which is bad for their health or education.
- Children who are refugees have the right to be cared for properly and have the same rights as children who were born in Scotland.

Physical punishment

It is not illegal for an adult to smack a child but it is illegal for an adult to

- Shake a child.
- Hit them on the head.
- Use an implement to strike a child (i.e. belt, slipper).

5 CHILDREN AND FAMILIES

At the centre of the children's hearings system is the idea that children should, wherever possible, grow up and be looked after in their own families. Parents, if relevant persons, have a right to attend hearings in order to participate in decisions being made about their children, and the focus of compulsory supervision will very often be to support the family to parent the child better.

The Kilbrandon Report (paragraph 35) clearly expressed confidence in the family:

'The principle . . . is . . . intended, wherever possible, not to supersede the natural beneficial influence of the home and the family, but wherever practicable to strengthen, support and supplement them in situations in which for whatever reason they have been weakened or have failed in their effect'.

Kilbrandon, Lord (1964) *Report of the Committee on Children and Young Persons* Edinburgh, HMSO

The Children's Hearings (Scotland) Act 2011, in keeping with the UN Convention, underpins the belief that children are best looked after by their parents and emphasises parental responsibilities towards their children rather than rights over them. (See *Legislation and Procedure*)

When problems arise in a child's life, the first attempts should be to support him or her in the context of the family. Only if this fails should alternative measures be sought. The principle which is stated in section 28 (2) of the Act is a protection against unnecessary intervention in the lives of children and families.

'the children's hearing may make, vary or continue the order or interim variation or grant a warrant, only if the children's hearing consider that it would be better for the child if the order, interim variation or warrant were in force than not'

Those involved in the children's hearings system need to be aware of their own attitudes and values. These may be very different from those of the family attending a hearing. There is a need to try to remain non-judgemental, while still retaining the

idea that the child's welfare is paramount – often a delicate balance.

CHANGING FAMILIES

Families in Scotland in the new millennium

At the time of the setting up of the Kilbrandon Committee the conventional family still existed; family meant mother, father, siblings and an extended family nearby for support. In the intervening years the definition of family has changed. If we bear in mind what children need from their parents, then perhaps the structure of the family is not important, but rather how the family functions, whatever its composition.

Trends in Marriage, Divorce and Cohabitation

Marriages in Scotland have levelled off at approximately 30,000 per year. However, of these marriages, 1 in 4 is between partners resident out-with Scotland, mostly at Gretna Green. Between 1981 and 2011 the average age at first marriage has increased from 27.6 to 32.6 years for men and from 25.3 to 30.9 years for women. In around a quarter of marriages, at least one of the partners had previously been divorced. Another key factor is the growing number of couples who live together before they marry.

The number of divorces in Scotland in 2011 was 9,862, just over a 3 percent decrease from 2009. Increasing levels of cohabitation may be related to the decline shown, since the breakdown of cohabiting relationships is not subject to divorce proceedings, and is not therefore included in these statistics. In 2011, 44 civil partnerships were dissolved (legally ended) in Scotland.

Source: Scotland's Population 2011 - The Registrar General's Annual Review of Demographic Trends

The Family Law (Scotland) Act 2006 recognises the rapid demographic changes in Scottish society. It seeks to give cohabiting and civil partnership couples, who then go on to separate, some protection from the financial consequences, but to a lesser degree than for married couples.

From the Scottish Household Survey 2007-08, the marital status of a representative sample of all adults aged 16 and over was as follows:

- 48% were married
- 10% were cohabiting/ living together
- 0% were in civil partnerships (i.e. less than 0.5%)
- 27% were single/ never married
- 8% were widowed
- 6% were divorced
- 2% were separated.

Pre-marital cohabitation has now become the norm, while cohabitation is the most common type of first co-resident partnership.

In addition to these changes in partnership patterns, the context of parenthood has also changed. In the most recent Registrar General's Annual Review of Demographic Trends for Scotland (General Register Office of Scotland 2009, p. 25), reporting 2008 data, just over half (50.1%) of all births in Scotland were extramarital, the great majority of which (93%) were registered by both mother and father and many of which were to cohabiting couples. This rate is about twice that of only twenty years ago: 24.5% of births in 1988 were extra-marital.

Source: Legal Practitioners' perspectives on the cohabitation provisions of the family law (Scotland) Act 2006.

Implications for Children and Young People

As a consequence of the 'fluidity' of these relationships many young people experience change in their family household and parenting arrangements while growing up. Over a quarter of children born to married parents now experience the separation of their parents by the age of 16. In any one year, approximately 8000 children under the age of 16 live in families where parents are divorcing. Figures for relationship breakdown amongst the 1 in 5 adults who cohabit but remain unmarried are not available so it is likely that many more children live through family dislocation every year.

The 'cool with change' research project reported in 2006 on research conducted among Glasgow school pupils aged 10 – 14 in ethnically and socially diverse areas:

Parental separation, death and re-partnering	
Either separation or death or re-partnering	33%
Parents separated	26%
Mother has new partner	13%
Father has new partner	12%
Mother died	1%
Father died	3%
other changes	
one parent away for a long time	8%
have a very ill relative	21%
someone close has been ill for a long time	36%
someone close has died	43%
moved school	14%
moved house	23%
moved town	6%
left home as an asylum seeker	4%

Young People's Perspective on Family Change

Moving between two households on a regular basis is now a common experience for children whose parents have separated. In a recent study over half the children regarded this with some positive feelings or no major negative ones. Another study noted that many children experience 'highs' and 'lows' as a result. Some talk of missing out on spending time with friends at weekends. Others talked of missing Mum or Dad when at the other's house but emphasised benefits such as two Christmases.

One other recent study found that being part of a step-family seems to be helpful for younger children but harder for older children to adapt to. Another study highlights that children see the role of the step-parent in very different ways. Some stressed that the step-parent should be a friend, others said a parent. Many said that they found being disciplined by a step-parent hard to take.

Contact with a non-resident parent can be difficult and compromised by violent or other unacceptable forms of behaviour. In some cases children talk about making the decision for themselves to reduce or stop contact based on a growing realisation of the inappropriateness of the parent's behaviour. This once again emphasises the need to take the views of the child into consideration.

Other difficulties children highlighted included:

- money being short
- mother / father spending time in prison
- on-going family feuds
- not seeing estranged family members.

Research suggests that family separation and the re-partnering of a parent are both best understood as a process. When the event is fairly recent children tend to talk about initial problems which in many cases are eventually resolved.

Initially children experience their parents re-partnering as a loss in that they often found that they enjoyed less parental attention than previously. This meant that they could dislike new partners out of jealousy rather than because they were intrinsically unlikeable.

Children Living in Re-Ordered Families

Children whose families undergo a series of disruptions and changes are more likely to experience social, educational and health problems than those whose families remain intact. A study by Monica Cockett and John Tripp of Exeter University, based on interviews with children and parents in contrasted family settings concludes that:

- Children whose families have been 're-ordered' by separation or divorce were more likely than children from intact families to have encountered health

problems (especially psychosomatic disorders), to have needed extra help at school, to have experienced friendship difficulties and suffer from low self-esteem.

- Where children had experiences three or more different family structures, the 'outcomes' were generally worse than for those living (for the first time) with a lone parent or in a step-family. These children were more likely to describe themselves as - 'often unhappy' or 'miserable'.
- Although severe marital conflict and financial hardship were associated with poor outcomes for children, family re-organisation(s) appeared to be the main adverse factor in children's lives.
- Only a small minority of children – one in sixteen – had been prepared for an impending separation or divorce by explanations from both parents.
- Fewer than half the children in re-ordered families had regular contact with the non-resident parent – usually their father. Half the children without any reliable contact did not know where their non-resident parent was living.
- A significant minority of children in re-ordered families had made their own arrangements to keep in contact with their non-resident parent, because the parents themselves had been unable to reach agreement or were not talking to each other.
- Children who had experienced a series of family disruptions were not only least likely to have contact with their non-resident parent, but also received less support from extended family networks.

What happens to children when their parents separate?

Children can react very differently to separation or divorce. The way they react depends on a number of things, but two important factors are the age of the child and the degree of conflict and animosity between the parents.

There is no doubt that this is a stressful period for children, but most recover and end up leading normal, healthy lives. Children from separated families can develop and flourish just as well as other children. Their adjustment is enhanced when parents remain sensitive to the children's needs.

Separation is often a surprise for children and they generally experience many of the same feelings as adults. Children can also grieve for a long time. They may be unaware of the problems their parents were having and they may feel shocked and confused when the separation occurs. They are also likely to feel insecure and worry whether the remaining parent will leave them as well. Some children may feel that they must have been to blame. Others may feel very angry with either or both of their parents and want to blame one of them.

Sometimes children become unsure about whether they can still love the parent who left, and they can wonder what is happening to the absent parent. Although parents are often upset and confused themselves at this time, it is important to try to understand what your children are going through and to consider their feelings as well.

How do they behave?

Children do not always communicate with words. Their response to their parents' separation may be expressed in behaviour. Some children become very withdrawn and avoid talking about the separation or the absent parent. Others (particularly if they are younger) may become very 'clingy' and not want to let the parent they are with out of their sight. These children feel they have 'lost' the departing parent and are determined not to lose their remaining parent.

Others may 'regress' in their behaviour – they may act younger than they did before the separation, talk in baby talk or fall back in their toilet training. Some may have nightmares, others may become rebellious, difficult to handle or aggressive with other children and even their parents. These are some of the ways children might show their distress. This is their signal that they need special attention. With time most of these behaviours disappear. However, if they persist over a long period of time it is best to seek help.

What happens to children at different ages when parents separate?

Birth – 2 years

Children in this age group are highly dependent on their parents. If one parent has taken on primary responsibility for care of a child, it is almost certain that a strong physical and emotional dependence will develop between them. Lengthy separation from this parent can be a source of intense emotional distress. A child at this age has a very different concept of time than does an adult. For very young children a few hours will seem to be a very long time and this needs to be considered when making parenting arrangements. In this age group, children are likely to fret for the absent parent with whom they need frequent, short periods of contact to continue the relationship.

A high level of conflict between the parents can make visits extremely stressful for a child of this age. For this very young group, it can be helpful if parents stick to a routine and, where possible, provide reminders of the other parent such as photographs. It may also be useful if some special toy or blanket travels with them between households.

2 – 5 years

Children in this age group begin to be a little more independent of their parents. Separation can be a major crisis for these children and they can react with shock or depression. For instance, children in this group may show distress by a change in sleeping habits, toilet habits or deterioration in language skills.

In this age group also, children differ from adults in how they perceive time. They have less time distortion than infants, but still experience a short time as being much longer than it is. If conflict between the parents is high, the child may not cope easily with overnight periods away from a parent who has day-to-day care of them.

Pre-school children understand the world through very different thought processes than older children. They often fantasise what they do not understand and are likely to make up things from bits of their own experience. They are also often confused by time and days. A calendar showing when they will be with either parent can be

helpful. They are sensitive to criticism of their other parent and may perceive this as criticism of themselves.

5 – 8 years

Children in this age group are beginning to be able to talk about their feelings. They often have an intense wish to restore their parents' relationship and say and do things they hope will bring this about. They often want to stay at home to be near the parent with whom they spend most of their time.

Similarly, they feel reluctant to leave the other parent at the end of a visit and may exhibit behavioural problems which are noticed by friends, teachers and parents.

Children in this age group can have difficulties expressing their worries and tend to demonstrate them through their behaviour which can be difficult to understand. It may be helpful if both parents, or adult friends or relations, invite children of this age to express their emotions about the separation, particularly of their desire to get their parents back together. Children should be discouraged from taking responsibility to contact arrangements or for the absent parent.

8 – 12 years

Children in this age group are able to speak about their feelings. They experience a conflict of loyalty to each parent and, if the conflict between the parents is high, they may try to cope by rejecting one parent. They are also beginning to experience the world outside their family. They join clubs and go to birthday parties. When making parenting arrangements the child interests and activities should be taken into account. This allows them the opportunity to join in the social and sporting activities which are an important part of their development. Where possible, it is beneficial for children to continue their activities regardless of who is caring for them.

12 – 16 years

In some respects, adolescents are often independent of their parents, even when their parents are not separated. They need to be given time and space to work out their own reactions to their parents' separation. If pressured by either parent, adolescents are likely to react with anger and rejection.

6 CHILDREN AND SOCIETY

HOUSING

Housing Tenure

The last 50 years have seen a substantial change in housing tenure in Scotland. Historically, there has been a marked increase in the proportion of owner-occupier households, from a quarter in 1961 to around two thirds in recent years. This was mirrored in the decline of the private and social rented sector, which in 1961 accounted for 34% and 41% of households respectively.

The more recent Scottish Household Survey data, from 2005 through to 2011, give some indication that the rising trend in relation to owner-occupation may be levelling out to some extent, possibly in part due to increasing pressure in the housing market. While the private rented sector has shown small but consistent growth from 5% in 1999 to 11% in 2011, this has been mirrored through a decline in the social rented sector (32% to 22%).

The decline in social housing has been accompanied by substantial changes in the profile of its tenants. Data from the Scottish Census show that in 1981, the profile of social sector tenants was similar to the profile of households in society generally in terms of their size, composition, and social and economic characteristics. This is no longer the case and tenure patterns show marked differences by household type, reflecting differences in life stage and household circumstances.

There is a strong geographic component to the changing profile of the social housing sector and a link with deprivation. The 15% most deprived areas are characterised by high concentrations of social housing, with over half (56%) of households in the social rented sector, compared to 23% overall. More generally, there is a consistent and marked link between levels of social sector renting and deprivation.

Source: Scottish Household Survey 2012

Homelessness

The Scottish Government is committed to the target that all households assessed as unintentionally homeless by local authorities will be entitled to settled accommodation by 2012.

- An estimated 55,227 applications under the Homeless Persons legislation were made to local authorities in 2010-11, a decrease of 3.3% compared to the 57,122 applications made the previous year.
- The majority (63%) of households who presented as homeless were single-person households. Most of these were single male households. Single parent households, predominantly female, accounted for the next largest group (23%).
- Some 47% of applications were made by applicants who were living with friends or family before applying for assistance. A further 35% were by applicants who owned or rented their accommodation before applying.
- Disputes within the household / relationship breakdown led to 28% of homelessness applications. An additional 26% gave the reason that they were asked to leave their previous accommodation.

Over half (51%) of single female applicants are aged under 25. Single males have a slightly older age profile with approximately half (48%) being aged under 30.

Source: Operation of the homeless persons legislation in Scotland: 2010-11:
National Statistics publication

Up to half of all young people who are now homeless have previously been looked after i.e. they have been subject to a compulsory supervision order that may have included residential care.

POVERTY

The UN Convention of the Rights of the Child, ratified by the British Government in 1991 includes:

'the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.

The Convention makes it clear that in order not to be poor, a child has to experience a standard of living that enables her or him to participate in society. Child poverty implies exclusion from mainstream society and a denial of opportunities that are available to other children.

Definitions of poverty

Absolute poverty

This refers to the attempt to define a level of income that will support basic minimum needs for food, fuel, housing and clothing. Most people accept that what is regarded as 'the minimum' inevitably changes over time.

Relative poverty

This looks at how poor people are in relation to the society to which they belong. The quotes from Professor Peter Townsend and the EC Council of Ministers shown below illustrate relative definitions of poverty:

'Individuals ... can be said to be in poverty when they lack the resources to obtain the types of diet, participate in the activities and have the living conditions and amenities which are customary ... in the societies to which they belong'. (Professor Peter Townsend)

'The poor shall be taken to mean persons, families and groups of persons whose resources (material, cultural and social) are so limited as to exclude them from the minimum acceptable way of life in the member state to which they belong'
(European Council of Ministers, 1984)

Relative definitions address the problems that lack of income entails: a lack of adequate diet and housing lead to social isolation and exclusion from activities that are accepted in a particular society.

Unlike many other European countries Britain has no official definition of poverty, or for that matter a definition for a minimum standard of living. However measurements, which are commonly used to identify poverty, are:

- having an income which is less than 60% of the national average (excluding the wealthiest members of society). On this measure, the proportion of the UK population defined as in poverty is roughly one in five.
- those dependent on Income Support.

The successive *Breadline Britain* surveys have been attempts to get a consensual agreement about what it means to be poor. Those conducting the survey (for the whole of the UK) presented a cross section of the public with a list of items, and asked them what they considered to be necessities. Forty-four items were suggested and those named by 50% of those taking part in the survey were considered to be necessities. Anyone who lacked three of the necessary items could then be defined as 'poor'.

The last such survey was conducted in 1999 and the study produced the following statistics for the UK as a whole:

- Some four million do not eat adequately by today's standards, i.e. they cannot afford to eat fresh fruit and vegetables, or two meals a day.
- Around 9.5 million people cannot afford to keep their homes adequately heated, free from damp or in a decent state of decoration.
- Some eight million people cannot afford one or more essential household item such as a refrigerator or carpets for the living area of their homes.
- Approximately 10 million adults cannot afford regular savings of £10 a month.
- Almost 6.5 million adults go without essential clothing due to lack of money.
- Nearly 7.5 million people are too poor to engage in social activities considered necessary, such as visiting friends and family, attending weddings and funerals or having celebrations on special occasions.

The impact of such deprivation on children was also illustrated by the study. It found that more than two million children go without two or more necessities and around four million (or 34 percent) lack at least one essential item, including such things as adequate clothing, a healthy diet, items to help their educational development, an annual week's holiday away from home or social activities.

As many as one in 50 children go without new properly-fitting shoes, a warm waterproof coat and daily fresh fruit and vegetables. Child poverty was highest in homes where: no adult had any work at all or worked part-time; lone parent households; large families; households where someone was chronically sick or disabled and in families with ethnic-minority backgrounds.

POVERTY - HOW IT AFFECTS CHILD HEALTH AND WELL BEING

Poverty and poor social circumstances damage health and life expectancy.

Life expectancy

- There are marked differences in life expectancy between people born and living just short distances apart over much of Scotland.

Pregnancy and birth issues relating to low income families

- mothers who grew up socially disadvantaged are more likely to smoke during pregnancy and less likely to breast feed
- average birth weight of 200 g is lower in newborn than those in high income groups
- double the risk of very pre-term births (before 32 weeks) for infants born in the most deprived areas than for those in the least deprived areas
- very pre-term babies have an increased risk of dying in the first month of life, or if they survive, of having major health problems in childhood and later life.

Children from disadvantaged families face greater health risks

- 10 times more likely to die suddenly in infancy.
- 2 ½ times more likely to suffer chronic illness as toddlers.

- 2 times more likely to have cerebral palsy.
- 3+ times more likely to suffer mental disorders.
- Children of families in receipt of income support during their early childhood are 3 times more likely to have medically diagnosed asthma in their fourth year than those in families not in receipt of income support .
(UK Millennium cohort study of 18,000 children).

Impact of childhood poverty on adult health

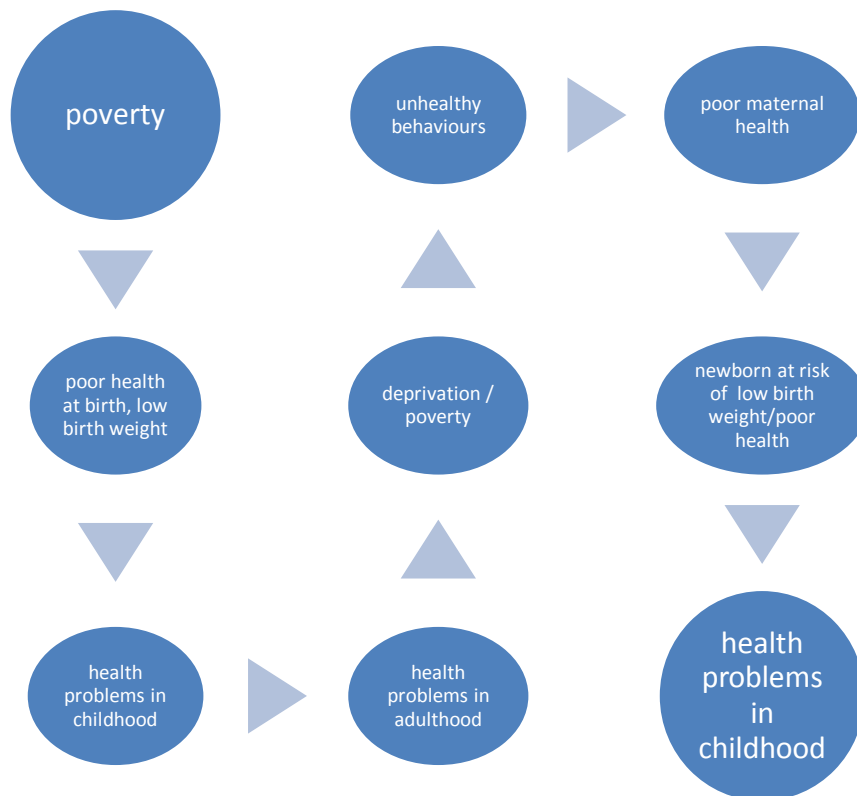
- 50% more likely to have chronic illnesses that limit ability to live a normal life.
- More likely to be overweight and obese.
- Those born with low birth weight are 4+ times more likely to have Type 2 diabetes and 25% more likely to die prematurely from heart disease.
- Increased risk of mental illness, in particular anxiety and depression.

The World Health Organisation Commission on Social Determinants of Health (2007) considered the issue of why poorer children are less healthy. They identified:

- proximal causes – those immediately responsible for illness
- distal causes – those that promote the proximal causes.

“The causes of causes”

- Evidence is increasing that an accumulation of socially related risk factors in childhood exert a negative effect on health in childhood itself and on into adulthood.
- Poor social circumstances promote poor behaviours which exert a negative influence on the health of the adult and on the health of their children.



There are some known relationships between deprivation and risk behaviours:

- Social disadvantage experienced in childhood is associated with disadvantage at the time a female becomes pregnant.
- Smoking in pregnancy is known to be more prevalent among disadvantaged women.
- Smoking in pregnancy is associated with low birth weight.
- There is increasing evidence that socially related risk factors accumulate in childhood into adulthood and combine to exert a negative effect on health in childhood and beyond.
- Reducing child poverty is likely to have long term benefits for the children concerned and also for the health and well being of the whole community.

Acknowledgement: This information is extracted from an article published in 'Children in Scotland', January 2010 by Nick Spencer, Emeritus Professor of Child Health at the University of Warwick and author of the Health Consequences of Poverty for Children report for the End Child Poverty campaign group.

POVERTY PREMIUM

The poorest families in the UK are likely to pay higher prices than better-off families for basic necessities like gas, electricity, and banking. In their most recent report on the subject – *The UK Poverty Rip-Off, the poverty premium 2010* – Save the Children UK estimate that the costs that poorer families bear in acquiring cash and credit, and in purchasing goods and services, can amount to a poverty premium of about £1,280 each year, an increase of £280 since their first report on the subject in 2007:

	Typical costs	Costs to low-income families	Difference
Basic household item: cooker	£239.00	£669.24	£430.24
Loan for £500	£500.00	£750.00	£250.00
Cost to cash 3 x £200 cheques	£0	£36.00	£36.00
Annual electricity and gas bill combined	£881.06	£1,134.23	£253.17
Home contents insurance	£66.72	£98.64	£31.92
Car insurance	£309.82	£597.96	£288.14
Total Poverty Premium:			£1,289.47

Many low income households choose to manage their budget in cash to ensure they have control over their total spending which is a rational, safe approach that limits risk and minimizes exposure to unexpected costs and outgoings. The downside to this strategy is that many of these households do not have access to a bank account, or other banking facility that would allow them to pay a range of bills by direct debit, which is often the cheapest payment option for products and services. Some low-income families have a poor credit history, which means that they have no access to affordable low or no-interest credit. The credit they can access (rent to buy, catalogues, and doorstep lenders) is therefore charged at the highest interest rates in the market. A basic household cooker can cost a family without access to credit a total of £669, more than two and a half times the cost of the same cooker bought outright.

A prepayment meter is a system that requires cash to be paid before energy can be consumed. The tariffs charged for prepayment meters are more expensive than direct debit or online tariffs. In spite of this, more than half of households on prepayment meters receive a means tested benefit or benefits for disability. In 36% of cases in 2007, prepayment meters were put in place to recover debt. Some families who have tried to change from a prepayment meter to an alternative cheaper payment method have found their plans effectively blocked because the energy companies charge them a deposit of £250, an additional cost which would prohibit many low income families from switching.

Source: The UK Poverty Rip-Off, the poverty premium 2010 – Save the Children UK

THE BENEFITS SYSTEM

The benefits system is extremely complicated. Because entitlements vary according to individual circumstances, it is not possible here to give really meaningful figures in cash terms – those shown below are indicative only.

Child benefit

The child benefit system is under review (2012), with plans to introduce an element of means testing.

This is currently a universal non-means-tested benefit payable to anyone responsible for children up to the age of sixteen (or eighteen if they remain in full-time education). The 2011/12 level was £20.35 per week for the first child and £13.40 for subsequent children.

The benefit is normally paid every 4 weeks, but may be paid weekly if the claimant is also receiving a range of other supports, or is a single parent.

Income support

Income Support is extra money to help people on a low income. It is for people who don't have to sign on as unemployed, have a low income and work less than 16 hours per week. Eligibility depends upon personal circumstances.

Working Tax Credit / Child Tax Credit

This is a means-tested benefit which is available to low paid workers and non-workers with children. Applicants must work over sixteen hours per week and it is awarded for twenty-six weeks at a time. Some claimants may be only marginally better off in work than unemployed, owing to the withdrawal of housing benefit and council tax benefit as their incomes increase.

The loss of other benefits, such as free school meals, may also reduce their actual disposable income.

There are currently plans (2012) to raise the threshold of eligibility from 16 hours worked per week to 24 hours.

The Child Support Agency

The Agency was introduced in 1993 to implement the Child Support Act. It determines the level of child maintenance for parents who live apart. Lone parents claiming various types of benefit are obliged to authorise the Child Support Agency to pursue their absent partners for maintenance as a condition of receiving benefit. If payments are not regular, this can cause increased insecurity for the family. There is also evidence of greater tension between former partners. Fathers required to pay higher levels of maintenance may no longer be able to afford to visit their children as often as before and lose contact with them.

A new, simplified, method of child maintenance calculation came into effect in 2003. Fixed percentages of the non-residential parent's income are taken, depending on the number of children. Allowances are made if the non-residential parent has children living in their current family.

There are proposals (2012) to introduce charges for the use of the CSA, with the aim of encouraging families to come to their own agreed child support arrangements.

The Social Fund

The aim of the Social Fund is similar to that of the previous single payments scheme and aims to provide support for some people on low incomes to meet unexpected expenditure that could not be accommodated from their benefit payments

The Social Fund comprises of two parts: the **regulated** Fund and the discretionary Fund. The regulated Fund includes Sure Start Maternity Grants, Cold Weather Payments and Funeral Grants. For each of the awards certain groups would have an entitlement. However, the **discretionary** Social Fund does not entitle anyone to support as of right. There are three parts to the discretionary Social Fund; Community Care Grants, Budgeting Loans and Crisis Loans. Two thirds of payments are dispensed in the form of repayable loans.

Young people

Every young person who is eligible to leave compulsory education and who is making a transition to further learning, training or employment within the Senior Phase should receive an offer of post-16 learning. This may include staying in school; attending college or university; taking part in a National Training Programme; learning in a community learning and development or third sector setting, including with an Activity Agreement; volunteering and employment. For those young people with Additional Support Needs, options may include supported work placements with an employer. The large numbers of this age group without employment have no automatic entitlement to benefit and will receive support only in cases of extreme hardship. Many of them have no financial means of support apart from family or friends. One in seven young people just disappear from the system. They are sometimes referred to as “Neets” (Not in employment, education or training)

Those in the eighteen to twenty-four age group are entitled to reduced levels of benefit.

RELIGION, RACE, CULTURE AND LANGUAGE

The 'Looked After Children (Scotland) regulations 2009' place a duty on local authorities and courts to consider the religion, race, culture and language of children when making arrangements for their care.

These legal duties reflect the importance of recognising the diversity of the Scottish population. The following information is aimed at providing an understanding of some of the areas which may affect a child and when discussing the placement of ethnic minority children.

Religious persuasion

This refers to the child's religious persuasion not the parents'. It refers to the system of beliefs and faith that a child is brought up with or adopts.

Racial origin

This can be the child's own country or area or that of their parents, grandparents or ancestors, their culture, their language etc. The more usual term is 'ethnic origin'.

Language

This term means the language of common use within the family. For some children in Scotland, English is not their first language.

Culture

This refers to the shared habits and beliefs including values and social norms as well as family structure, ceremonies, dress, diet, music etc.

Racial identity

It is important for all children to develop a positive self-image and, for children from ethnic minorities this includes a positive racial identity. It can be undermined by negative messages from the white society about, for example, being 'black':

- research has shown that children as young as two are aware of racial difference

- it is important to acknowledge that the child's needs will be different
- children may also face racism within the 'care environment'
- many carers of ethnic minority children are white.

Racism

This is the term used to describe prejudice and discrimination towards people on the basis of their skin colour, culture, language and religion. Racism exists in Scotland today and takes many forms – graffiti, verbal and physical attacks, bullying and harassment.

Sectarianism

Sectarianism stems from strongly held views about religion and can take the same forms as racism. Traditionally in Scotland it is associated with divisions between Catholic and Protestants. It is also present in anti-Semitism and in divisions between the various Asian communities.

The Scottish Government is committed to a number of anti-sectarianism initiatives, in particular in relation to football and behaviour at football matches.

Implications for hearings

It is important that those involved in the children's hearings system remember that in treating every child as an individual they must consider the child in the context of his or her family, race, gender, class, culture religion, language and ability when making decisions. The 'Looked After Children (Scotland) regulations 2009' which includes children on placed on compulsory supervision orders, state that if such a child is being placed away from home these factors must be considered.

At any review of a looked after child, the following issues that should be explored include:

- has the child been able to discover/express views about ethnic/cultural background?
- is the child in touch with his or her background?
- if not what steps are being taken?

- can the child practise his or her religion?
- are the staff working with the child aware of these needs and how to address them?

When making decisions about children with racial, religious, cultural and linguistic needs, appropriate information should be contained in reports. The child, family and others involved with the child should be able to address the issues or provide additional support to ensure they can be implemented.

RACIAL AWARENESS

The *One Scotland – Many Cultures* campaign initiated by the Scottish Government aims to raise awareness of racist attitudes and behaviour and highlight the ongoing impact this has on individuals and communities. It highlights positive views of diversity as well as tackling negative behaviour. Margaret Curran, Minister for Social Justice at the time, is quoted as saying

“..... we are stating clearly and loudly that there is no place for racism in Scotland. Unless we rid ourselves of prejudice and discrimination our pursuit of social justice, equality of opportunity, and economic prosperity will be seriously compromised”.

Further details are given in the Scottish Government’s *One Scotland – Many Cultures* information pages on the Government’s website (www.scotland.gov.uk).

Role of the Panel Member

Given that these inequalities exist and that increasingly panel members are faced with minority ethnic families at hearings or, in other cases, young people who have committed racially motivated offences, what can the panel member do to facilitate the best outcome for the child?

The following list of do and don’t statements have been suggested by professionals working in the racial awareness field:

- Be prepared to check the precise meaning of words for family relations such as “uncle” and “aunt” as they may mean something other than what you think.
- Avoid terms such as “half-caste” and “coloured” as they may cause offence.
- Be sensitive to the difficulties of using slang and jargon.
- Appreciate how cultural differences in body language can contribute to misunderstandings.
- Be aware that in some communities it may not be the custom to shake hands.
- Be aware that using terms of endearment may cause offence.
- Be aware that in some communities a woman may feel uncomfortable or may not wish to be in a room with a man who is not a relative.
- Don’t ask someone for their “Christian” name – ask for their ‘personal’ name and ‘family’ name.
- Don’t assume that just because someone responds to questions in English that they fully understand.
- Don’t underestimate the influence of your own cultural background and the way it may affect your perception and behaviour towards others.
- Don’t make assumptions – ask questions, explaining that you want to be sure you understand.

Finally panel members should be aware that different ethnic groups will have different perspectives and attitudes. That is not to excuse behaviour that is clearly not in the best interest of any child but, as is the case for all families, what is the norm for one can be unacceptable for another.

7. CHILDREN AND EDUCATION

School is an important part of children's lives and today 80% of children stay on past sixteen years. There have been many changes in the Scottish education system in recent years aimed at achieving a wider ability range and recognising the value not only of academic progress but also of vocational achievement. The years of compulsory schooling in Britain are from five to sixteen.

The summer leaving date (31 May) is for those children whose sixteenth birthday falls between 1 March and 30 September. The Christmas leaving date is for those children whose sixteenth birthday falls between 1 October and 28/29 February.

In order to make sense of school reports and to understand what stage a particular child may be at, it is important for panel members to have an understanding of the current structure. Some of the terms in current use regarding class composition and examinations follow.

SCOTTISH CURRICULUM

The Scottish schools' curriculum – "Curriculum for Excellence" covers the ages 3 to 18. The aims of this curriculum are that all children and young people will develop the attributes, knowledge and skills they will need to flourish in life, learning and work.

Children should become:

- Successful learners.
- Confident individuals.
- Responsible citizens.
- Effective contributors.

Nursery and Pre-school Education

In Scotland children are entitled to a place in a nursery class when they reach their third birthday. This gives parents the option of two years of funded pre-school education before beginning primary one, which is the first year of compulsory education. Nursery children who are three years old are referred to as ante-pre-school whilst children who are four years old are termed pre-school.

Primary School

Children start primary school aged between 4½ and 5½ depending on when the child's birthday falls. Scottish school policy places all those born between March of a given year and February of the following year in the same year group. Children born between March and August start school in August at between 5½ and 5 years old, and those born between September and February start school in the previous August at between age 4 years 11 months and 4½ years old.

The Scottish system is the most flexible in the UK, however, as parents of children born between September and December can request a deferral for 1 year (not automatic, requires to be approved), whilst the parents of children born between January and February can opt to hold their child back a year and let them start school the following August. This usually allows those not ready for formal education to have an extra year at nursery school.

Secondary School

Pupils remain at primary school for seven years. Then, aged eleven or twelve, they start secondary school for a compulsory four years with the following two years being optional.

In Scotland pupils currently sit Standard Grade or National Qualifications (Intermediate / Access) exams at the age of fifteen/sixteen, for normally eight subjects including compulsory exams in English, Mathematics, a Science subject (Physics, Biology or Chemistry) and a Social Subject (Geography, History or Modern Studies).

As the Curriculum for Excellence is introduced, it is anticipated these examinations will change, being phased in between session 2013/14 and session 2015/16:

New National Qualifications		Current National Qualifications
Access 1 and Access 2 (revised)	Replaces	Access 1 and Access 2
Access 3 (revised)	Replaces	Access 3
National 4	Replaces	Standard Grade (general level) Intermediate 1
National 5	Replaces	Standard Grade (Credit level) Intermediate 2
Higher (revised)	Replaces	Higher
Advanced Higher (revised)	Replaces	Advanced Higher

This programme may be subject to a year's delay to allow more time to prepare for the changeover.

The Scottish Government also requires students to have two hours of physical education a week.

The school leaving age is generally sixteen after which students may choose to remain at school and study for further National Qualifications usually at Higher and/or Advanced Higher level.

Class Composition

Primary school children are generally taught in mixed ability classes although, depending on the local authority, some measure of ability grouping may operate for some subjects. Children in small primary schools in more rural and island areas may be taught in composite classes, where children of different ages are grouped into single classes - how this is arranged will depend on local policies and the individual circumstances of the school.

Secondary school pupils may be grouped in various ways:

- **Mixed ability**

Pupils of different levels of ability are taught together in the same class. A variety of materials will be used to enable pupils to work according to their individual abilities.

- **Setting**

In secondary schools, in certain subject areas, usually English and Mathematics, pupils are taught in sets according to ability. All pupils within the same set use the same materials and work at the same pace

School Structure

	<i>Birthday during school year (unless held back for a year when starting primary school)</i>	<i>Class / Year group</i>
Primary	5	P1
	6	P2
	7	P3
	8	P4
	9	P5
	10	P6
	11	P7
Secondary	12	S1
	13	S2
	14	S3
	15	S4
	16	S5
	17	S6

The syllabus and the qualifications for which pupils will be entered should be flexible to meet the individual needs of the child.

Curriculum Levels

The Curriculum for Excellence defines five levels of learning. The path most children and young people are expected to follow through the levels reflects their stages of maturation and the changing ways in which they engage with learning as they develop.

Some will start learning at these levels earlier and others later, depending upon individual needs and aptitudes. The framework is designed to be flexible in order to permit careful planning for those with additional support needs. This includes those who, for example, have a learning difficulty and those who are particularly talented or able.

While children and young people should feel that the transition from one stage to another is smooth, they should still be able to look forward to the excitement of starting nursery, primary school and secondary school.

Level	Stage
Early	The pre-school years and P1, or later for some
First	To the end of P4, but earlier or later for some
Second	To the end of P7, but earlier or later for some
Third and Fourth	S1 to S3, but earlier for some. The fourth level broadly equates to Scottish Credit and Qualifications level 4 The fourth level experiences and outcomes are intended to provide possibilities and choice for young people's programmes and will not include all of the fourth level outcomes
Senior phase	S4 to S6, and college or other means of study

Pastoral care

In secondary schools every pupil is allocated a 'pastoral care' (formerly 'guidance') teacher. The organisation of this care will vary from school to school but the tasks common to all such teachers will include:

- Building relationships / personal support.
- Curricular guidance.
- Personal and social education.
- Careers education and guidance.
- Pupil behaviour.

Pupil profile

The school completes a profile of each pupil, detailing his/her progress throughout the school years. For pupils who move schools frequently, it is essential that the pupil profile is passed on timeously to avoid the pupil dropping out of sight of the education authorities.

DISCIPLINE AND EXCLUSION

Corporal punishment is not permitted in Scottish schools. Pupils are disciplined in various ways, ranging from punishment exercises and detention to exclusion.

Exclusion

The Education (Scotland) Act 1980 provides, in regulation 4, that ...an education authority **shall not exclude** a learner from school unless the authority:

- "are of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school"; or
- "consider that in all the circumstances to allow the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there."

In practice, the three basic criteria for exclusion are:

- Physical assault on pupils, physical or verbal bullying (including cyber-bullying).
- Deliberate damage to buildings or equipment.
- Extreme behaviour towards staff, including assault and verbal abuse.

Exclusion will range from short-term (one to three days) to permanent. Return to school may depend on the pupil and/or parents agreeing to abide by certain conditions. Children (independently of their parents) and parents may appeal against the child being excluded.

If a child is excluded the local authority must make other arrangements for the child's education "*without undue delay*" (section 14(3) of the education (Scotland) Act 1980). This not defined, but the Scottish Government Circular 8/03 indicates that this should normally be interpreted as meaning no more than 10 school days.

Where it appears to a hearing that a child has been excluded and has not been placed in an alternative education establishment without undue delay, they may require the National Convenor to refer the matter to the Scottish Ministers (Children's Hearings (Scotland) Act 2011, section 127).

Exclusion is a last resort and schools should set up strategies to provide inclusive education. These include:

- Well planned support strategies for children with social, emotional and behavioural difficulties.
- The development of a whole school ethos with procedures to identify possible difficulties.
- An ability to adjust the curriculum for individual pupils with specific difficulties.
- Consideration of the need for on-site bases or units.
- An evaluation of the existing provision.

Truancy

Schools have a legal duty to record pupils' attendance. Formal procedures for dealing with unexplained absences involve the school, parents and the local authority education service.

Parents also have a legal duty to provide a suitable education for their child. Normally, this will be by registering them for an appropriate school and supporting their attendance there. Alternatively, they may provide for their child's education at home, provided that such provision has been approved by the local authority. In the absence of an approved alternative home education, parents can be prosecuted and fined for the non-attendance at school of their children.

A child may be referred to a hearing on the section 67 ground that they have *failed without reasonable excuse to attend regularly at school* (Children's Hearings (Scotland) Act 2011, section 67(o))

Reasonable excuse is defined as:

- When a child, if under eight years old, lives more than two miles (three miles if over eight) from the nearest school and the local authority is unwilling/unable to provide public transport.
- When the child is unable to attend through illness.
- Other circumstances which in the opinion of the education authority "... afford a reasonable excuse".

Where a child / relevant person deny section 67(o) ground and the case is sent for proof, it is up to the child / relevant person to prove that one of the above reasonable excuses pertains.

Truancy is a complex issue and the reasons children give are varied. Some reasons offered range from boredom, to play computer games or to avoid punishment or to avoid bullying. Some truancy can also be condoned by parents e.g. needing someone to babysit, to provide care for a family member, or to go on holiday without permission from the school.

The indicators of potential risk of truancy include:

- Abused children who may express anxiety by truanting.
- Disruptive behaviour by a child.
- Poor progress at school, literacy difficulties etc.
- Patterns of non-attendance carried over from primary school.
- Very strict enforcement of school rules.
- Poor parent/teacher relationship.

Many regular truants (and sometimes their parents) simply fail to see any relevance to school attendance. High achieving pupils are less likely to truant.

Bullying

Bullying is not new. It may once have been seen as just part of the 'rough and tumble' of school life, but such attitudes have changed, and it is not now acceptable. Both boys and girls may bully, and a victim of bullying may, in turn, become a bully. Bullying should always be taken seriously. All schools will have an anti-bullying policy which should be reinforced with all pupils.

Contact Between Schools and Hearings

There is no formal contact between the Children's Panel and the schools in any one locality. Any formal contact is between the Locality Reporter Manager and the school. Panel members may meet pastoral care and other staff as part of their training. Pupils may learn about the children's hearings system as part Modern Studies, and children's panel members may sometimes be invited into schools to talk to pupils and staff.

Schools can be asked to provide input into integrated assessments, and may take the lead role in drawing up such assessments where the main issues relate to school non-attendance. Teachers are also invited to attend hearings, if appropriate, to expand upon their reports. Although attendance is now more common and many teachers wish to attend, the need to provide cover for the teacher's absence from school may make it difficult for a teacher to do so.

8. CHILDREN AND ADDITIONAL SUPPORT NEEDS

Universal Support

Every child and young person is entitled to support to enable them to gain as much as possible from the opportunities which Curriculum for Excellence can provide.

Universal support starts with the ethos, climate and relationships within every learning environment. An environment which is caring, inclusive, fair and focused on delivering learning to meet individual needs will encourage all children and young people to meet their learning potential.

All children and young people should have frequent and regular opportunities to discuss their learning and development with an adult who knows them well and with whom they have a mutually trusting relationship. This key member of staff has the holistic overview of the child or young person's learning and personal development.

Additional Support Needs

The Education (Additional support for Learning) (Scotland) Act 2004 places duties on local authorities and other agencies to provide additional support where needed to enable any child or young person to benefit from education.

Children with additional support needs should normally attend a local mainstream school. In order to facilitate this, it is recognised that this may involve provision not only for the child's educational needs but also for their health needs. Circumstances in which a child would need to be provided with an education outwith mainstream should arise only 'exceptionally'.

Additional support may be required for a range of learning needs:

Attention Deficit Hyperactivity Disorder (ADHD)

ADHD is considered to be a developmental disorder. It affects about 5% of school-aged children, with symptoms starting before age 7.

Symptoms are characterised by attention difficulties, impulsiveness and, in the case of ADHD, hyperactivity. Boys are more likely to be affected than girls.

Autism Spectrum Disorder (ASD)

Autism is a lifelong developmental disability. It is part of the autism spectrum and is sometimes referred to as an autism spectrum disorder, or an ASD.

The word “spectrum” is used because, while all people with autism share three main areas of difficulty, their condition will affect them in very different ways. Some are able to live relatively ‘everyday’ lives; others will require a lifetime of specialist support.

The three main areas of difficulty which all people share are sometimes known as the ‘triad of impairments’. They are:

- Difficulty with social communication.
- Difficulty with social interaction.
- Difficulty with social imagination.

The National Autistic Society

Dyslexia

Dyslexia can be described as a continuum of difficulties in learning to read, write and/or spell, which persist despite the provision of appropriate learning opportunities.

Learners with dyslexia will benefit from early identification, appropriate intervention and targeted effective teaching.

Difficulties experienced by individuals often do not reflect their ability to understand and may not be typical of performance in other areas.

Dyspraxia

The term dyspraxia covers a range of difficulties in co-ordination which may extend also to speech – typically the ‘clumsy child’. This can have impacts on the ability to write legibly (and hence progress at school) and on social inclusion for games etc.

Diagnosis may be relatively straightforward, and the condition may be improved by a series of prescribed exercises.

Deaf and hearing impaired

Recent legislation has led to developments in the provision of education for deaf pupils. It places duties upon local authorities to ensure that education is directed to the development of the personality, talents and mental and physical abilities of children to their fullest potential, and also to raise educational standards.

Deaf pupils are entitled to have their needs identified and met, and to have arrangements for support reviewed regularly. Some deaf pupils may not require high levels of support but still require to have their progress monitored. For others, careful planning and support will be needed to enable them to achieve the desired outcomes.

English as an Additional Language (EAL)

Bilingual learners are those who function in more than one language in daily life. The term 'bilingual' emphasises that learners already have one language and that English is a second or additional language.

It is necessary to provide support beyond the learner's acquisition of social fluency to ensure meaningful access to the whole curriculum, to enable learning, achievement and social and personal development.

Highly Able

Many learners need additional support to make the most of their education taking account of their individual circumstances and abilities. This includes learners who show particularly high abilities in one or more areas.

Challenge and enjoyment, personalisation and depth are important principles for all learners. Enhanced and augmented provision may be necessary to ensure highly able learners make the most of their education.

Looked after children

Children and young people may be looked after for short or long periods; some return home, some are adopted, and some remain looked after for many years until they reach adulthood

The 2007 Scottish Government report “*Looked After Children and Young People: We Can and Must Do Better*” (reinforced by the Looked after Children Regulations, 2009) identified the poor educational outcomes for looked after children and highlighted 8 notable messages:

- The importance of the corporate parent role.
- The need to raise awareness of the educational needs of looked after children and young people and improve training for all foster carers, residential workers, lead professionals, support workers and associated professionals.
- The need for clarity regarding the role and responsibilities of the designated person within schools and residential establishments.
- The importance of providing flexible and appropriate support before, during and post transitions.
- The importance of physical, mental and emotional health and wellbeing in facilitating positive educational outcomes.
- The need for good quality accommodation, which supports the education, training or employment of looked after children and young people.
- The importance of clear advice and a range of emotional, practical and financial support for looked after young people as they make the transition to adulthood/ independent living.
- The vital importance of stability and continuity within education and care settings.

Visual Impairment

Pupils with visual impairment can face a considerable challenge. Adjustments are required in teaching a pupil with visual impairment to ensure a curriculum which is delivered in both non-visual and visual ways.

Recent legislation has led to developments in the provision of education for visually impaired pupils. It places duties upon local authorities to ensure that education is directed to the development of the personality, talents and mental and physical abilities of children to their fullest potential, and also to raise educational standards. Visually impaired pupils are entitled to have their needs identified and met, and to have arrangements for support reviewed regularly.

The development of children with visual impairment before they reach school may have been limited; therefore teachers need to create an environment in which physical, intellectual and social capacities may be extended.

9 CHILDREN'S HEALTH

MENTAL HEALTH AND WELL-BEING

Everyone has mental health – just like physical health. Good mental health is about having a basic sense of self-worth, and effective ways of coping with life.

Mental health problems are:

Common - they affect one in four people every year.

Hidden - many people suffer in silence, or don't get help – often because they're afraid of what other people might think.

Real - people don't imagine them. They're not being moody, they're not being weak and they can't just 'snap out of it'.

No one's fault - would you blame someone for having a physical illness?

People with mental health problems can't help what is happening. They are not to blame.

Treatable - with the right support and treatment, most people get better and get on with their lives.

Misunderstood - fear and ignorance mean that people with mental health problems have to deal with a lot of prejudice from people around them.

Given that mental health problems are common and that families who attend hearings are often under extreme stress and pressures it is inevitable that mental health will be an issue in some cases. The purpose of this section is to define some of the more common mental health illnesses that may be mentioned in hearing papers. It is not intended that panel members should be able to spot or diagnose mental illness but rather to understand terms used in reports.

Depression

The word 'depression' is used in many different ways. Everyone can feel sad or blue when bad things happen. However, everyday 'blues' or sadness is not depression. 'Clinical depression' lasts for at least two weeks and affects the person's ability to carry out their work or to have satisfying personal relationships.

Depression has no single cause and often involves the interaction of many diverse biological, psychological and social factors. People may become depressed when something very distressing has happened to them about which they have no control.

Depression can also result from some medical conditions, side effects of medication, pre-menstrual (or post natal) changes in hormone levels or lack of exposure to bright light in the winter months.

Psychosis

Psychosis is a general term to describe a mental health problem in which a person has lost contact with reality. There are severe disturbances in thinking, emotion and behaviour. Psychosis severely disrupts a person's life. Relationships, work and self-care are difficult to initiate and/or maintain.

The main psychotic illnesses are schizophrenia, bipolar disorder (manic depressive disorder), psychotic depression and drug-induced psychosis.

Psychosis often begins in late adolescence or early adulthood and the early symptoms involve behaviours and emotions which are common in this age group. Many young people will have some of these symptoms without developing a psychosis.

Schizophrenia

This is nothing to do with 'split personality'. The term means 'fractured mind' and refers to changes in mental function where thoughts and perceptions become disordered. The major symptoms of schizophrenia include:

- delusions; false beliefs of persecution, guilt, special mission etc.
- hallucinations; most commonly hearing voices – these are perceived as very real to the sufferer
- thinking difficulties; difficulties in concentration, memory or the ability to plan
- loss of drive; even motivation for self care
- blunted emotions
- social withdrawal.

Bipolar Disorder

People suffering from bipolar disorder (manic-depressive illness) have extreme mood swings fluctuating between periods of depression, mania and normal mood. During episodes of depression the person has all the symptoms listed above under depression. Common symptoms in mania include:

- increased energy and over-activity
- elated mood
- need for less sleep than usual
- irritability
- rapid thinking and speech
- lack of inhibitions
- lack of insight; the person is so convinced that their manic delusions are real that they do not realise that they are ill.

Drug Induced Psychosis

Brought on by the use of drugs and can be short lived. Drugs that can cause psychosis are marijuana, cocaine, ecstasy, amphetamines (speed) and magic mushrooms.

EATING DISORDERS

The most common eating disorders are anorexia (anorexia nervosa) and bulimia (bulimia nervosa). In both these conditions people control their food and eating as a way of trying to cope with their feelings and anxieties. It is important to remember that people with such disorders sometimes have normal body weight and the condition can go unnoticed for a long time.

Anorexia

People with anorexia don't eat enough. They think that all their problems are caused by how they look and believe they are fat even though others can see they are not. Anorexia can also cause specific health problems like brittle bones, hair loss, poor circulation, infertility and kidney disease.

Bulimia

This is more common than anorexia. Sufferers binge on large amounts of sugary or fatty foods. These binges are often followed by panic which means that people then go on to starve themselves, make themselves sick, take laxatives or over exercise. Physical problems can include tooth decay, constipation and damage to the intestines.

SELF HARM

Also known as self-wounding, self-damaging behaviour, self-injury, self-mutilation, self-poisoning and para-suicide.

It is important to realise that people do **not** self-harm to:

- seek attention
- cry for help
- attempt suicide
- nor is it a 'phase' or a horrific prank.

Whilst self-harm is not attempted suicide, there is definitely a link. Between 40-60% of people who commit suicide have previously self-harmed.

Implication for panel members

There is little the panel member can do in a hearing to address a child's or young person's mental illness, but the information above gives some insight into the symptoms experienced by them. There are however some procedural matters that should be considered in cases where mental health is an issue:

- at the start of the hearing, emphasise that it is important to get everyone's view and that if at any time people are finding things difficult or confusing to let the panel know
- be prepared to take a short break, or consider other ways to help everyone take a full part in the hearing
- careful consideration should be given to the need for a safeguarder to safeguard the child's interest if they are unable to do so because of their own

illness or if a carer's illness creates any doubt of what is in the child's best interest

- if the criteria are met, careful consideration should also be given to the need to authorise legal aid, particularly if the child's illness limits their capacity to understand the proceedings
- if you feel the child and/or parents are confused by the hearing then consider deferring the hearing and advise them to bring a representative to the next hearing. In this instance good practice would be to consider if the child needs the protection of an interim compulsory supervision order
- if you suspect that a child or relevant person doesn't have the mental capacity (on the day) to accept the section 67 ground then these should be discharged or referred for proof
- in the case of a child who is caring for a parent with a mental illness the parent may need to be 'handled with care' during the hearing and issues about the effect of caring on the child's welfare will need to be carefully addressed.

Remember it is not the role of the hearing to treat young people's problems, but to decide if compulsory supervision needs to be in place in order for professionals to do so.

Useful Contacts

Further information is obtainable from the following:

- www.penumbra.org.uk (general information on mental health)
- www.readthesigns.org.uk (information on mental illnesses)
- www.nshn.co.uk (information on self harm)

Information contained within this section is reproduced from; Mental Health First Aid Manual, Penumbra training materials, Mind's read the signs web site. Its use is gratefully acknowledged.

NEONATAL ABSTINENCE SYNDROME

What is Neonatal Abstinence Syndrome?

Neonatal abstinence syndrome (NAS) is a term for a group of problems a baby experiences when withdrawing from exposure to narcotics.

What Causes Neonatal Abstinence Syndrome?

Almost every drug passes from the mother's blood stream through the placenta to the foetus. Illicit substances that cause drug dependence and addiction in the mother also cause the foetus to become addicted. At birth, the baby's dependence on the substance continues. However, since the drug is no longer available, the baby's central nervous system becomes over-stimulated causing symptoms of withdrawal.

Why is Neonatal Abstinence Syndrome a concern?

When a mother uses illicit substances, she exposes her baby to many risks. A mother using drugs may be likely to use more than one drug, which can complicate the treatment. The risk of contracting HIV and AIDS is also greater among intravenous drug users.

In addition to the specific difficulties of withdrawal after birth, problems in the baby may include – but are not limited to – the following:

- Poor intrauterine growth.
- Premature birth.
- Seizures.
- Birth defects.

FOETAL ALCOHOL SYNDROME OR FOETAL ALCOHOL SPECTRUM DISORDER

The prevalence of FAS / FASD is not accurately known in the United Kingdom, given the lack of routine monitoring.

Foetal Alcohol Spectrum Disorder refers to:

- Pre and post natal growth deficiency. Babies are known to be short in length, light in weight, with smaller than normal head circumferences. They are also known not to catch up with healthy children as they grow older.
- Physical anomalies – a particular cluster of facial features include upturned nose, receding forehead and chin, asymmetrical ears and short palpebral fissures (the measurement between the inner corner of the eye and the outer corner of the eye). Other anomalies include heart and kidney problems.
- Central nervous system dysfunction including severe learning difficulties.

Such a diagnostic categorisation has been superseded by the term Foetal Alcohol Spectrum Disorder, which more accurately takes into account a wider range of associated disorders.

The effects of Foetal Alcohol Spectrum may include:

Young children

- Continuing lack of concentration and impulsivity.
- Their ability to relate to children of their own age may be limited.

Primary school age

- Short attention span.
- Inability to learn from past mistakes.
- Difficulty in adapting to new experiences.
- Inability to transfer what has been learned from one situation to another.
- Some may have poor impulse control and do not understand social rules.
- Difficulty in understanding the link between cause and effect, so if they do something wrong, they genuinely do not understand that it will result in some form of punishment.

Secondary school age

- Slower at reaching developmental milestones.
- Due to growth deficiency they will not stand out as older.
- Highly vulnerable, easily manipulated, wanting friends so desperately. They also have no sense of risk or danger.

Adolescent to adult

- Difficulty in understanding or working out the value of money. Problems in grasping concepts of time.
- Increased risk of mood and anxiety disorders in adolescence.

(Ref: Professor Moira Plant. 'Paternal alcohol misuse, implications for child placement' in Children Exposed to Parental Substance Misuse. BAAF 2004.)

10 OFFENDING BEHAVIOUR

Delinquency: *'an offence or misdeed usually of a minor nature, especially one committed by a young person'* Oxford Dictionary.

'The human infant has no sense of 'right' dress, safe driving speeds, moral sex or any of the norms of society, whether custom or law. Conformity, not deviation has to be learned.'

F Ivan Nye, 1958

'If ending offending or desistance is the intended outcome of intervention, approaches need to be embedded in empirical understanding of how young people desist. For instance, many adolescents engage in crime and other forms of rule testing, and most 'grow out' of such behaviours. Abnormalising them is not helpful. Asking why young people stop offending, rather than asking why they start in the first place may assist a positive and strengths-based approach to assessment and intervention.'

W. Whyte, 2012

The Kilbrandon Committee's main remit was to address the problems of what was then known as 'juvenile delinquency'. One of their pioneering conclusions was that children involved in offending behaviour and children who were victims of abuse or neglect should be treated within the same system according to their individual needs. In the early years the majority of children appeared at hearings on the grounds that they had committed offences. From the late 1980's onwards, however, the balance of referrals has changed and both the law and social services have become increasingly preoccupied with child protection issues.

However, the problem of offending by young people has not gone away. The news is full of reports of crimes committed by children, and what to do about juvenile offending remains high on the political agenda. Demands for severer punishments often seem to find favour with the public.

Implications for panel members

As people involved in the children's hearings system, panel members may be as angry, distressed or frightened as anyone else if they are the victim of a crime, and may well find their commitment to the welfare approach tested. They need to keep a cool head in this debate and try to look carefully at what the problem really is and what can be done about it.

However it is suggested that hearings have to be more imaginative in their dealings with young people who offend, considering both their needs AND deeds and have a better range of programmes and services at their disposal.

What is the problem?

It is first of all important to realise that, whatever the tabloid press may say, offending by young people in Scotland is not spiralling out of control. Before considering the issue of offending by young people the following helps put the problem into perspective:

- just over 4% of Scottish children come to the attention of the children's reporter and only around one in ten of this figure will be referred to a hearing
- only one in five of the children referred have committed an offence
- more boys are referred for a non offence ground than an offence ground.

Between 2008/9 and 2011/12, the numbers of offence referrals fell from 11,805 to 5,604

One problem is the difficulty of building up an accurate understanding of what is really going on. Since it is impossible to include unreported crimes in statistics we cannot be totally sure of the full picture. There is no denying that teenagers do get into trouble. Studies based on information given by young people themselves indicate that offending can be an accepted part of life for young people at a certain stage. It is often a group activity, and evidence suggests that many children commit offences during the hours when they should be at school.

The kind of offences they commit are usually non-violent and relatively minor – vandalism, shoplifting, thefts from vehicles – but still serious enough to have a high nuisance value within their communities. The peak age of offending amongst boys is eighteen and girls is fifteen, and the vast majority of them will grow out of this kind of behaviour within a few years, whatever action may or may not be taken by the authorities. There is a strong link between violent behaviour and under-age drinking and young people involved in drug misuse may commit offences to finance their habit.

There is a widespread view that a small number of ‘persistent offenders’ are responsible for a high proportion of the crime committed in certain communities.

However it is hard to pinpoint the young people who actually belong to this group, as the difference between offenders and persistent offenders seems to be one of degree.

The main characteristics of persistent offenders are:

- A lack of maturity.
- Low IQ.
- Low family income.
- Low school achievement, poor literacy and numeracy.
- A history of offending in the family, association with known offenders.
- Risk taking.

CAUSES

There is much public concern about lawlessness and violence in society but little agreement about the causes. The absence of moral and spiritual values, lack of discipline, break-up of families, influence of television and film, drugs, alcohol are all suggested. The Kilbrandon view was that it was not useful to categorise children on the basis of their offending alone, but to look behind the presenting problems to find the underlying causes in the life of the individual child.

In so far as it has been possible to identify them, research has demonstrated that the backgrounds and experiences of young people with a pattern of offending often have several factors in common:

- having poor childhood experiences
- personality and behaviour issues
- a lack of guidance and supervision from parents
- inappropriate (harsh, violent and/or inconsistent) discipline
- having been abused/neglected; coming from broken homes
- education interrupted by truancy, exclusion, low achievement, problems with peers /teachers
- living or mixing with family/friends who offend – the peer group can give a sense of identity
- periods spent in care – inconsistent care and frequent moves
- substance, drug, alcohol misuse
- problems that although identified early were not addressed.

WHAT DOES THE SYSTEM DO ABOUT IT?

The very small number of children who commit serious crimes may be prosecuted and sentenced by the courts.

The majority of children committing offences continue to come through the children's hearings system. The hearing's task is to identify if a compulsory supervision order can address the problem of offending and lead to a reduction in and hopefully stop future offending.

It is ironic that in Scotland, with its welfare-based juvenile justice system, the use of custody for offenders over sixteen is amongst the highest in Europe. There is no evidence to show that highly punitive systems, including imprisonment, are effective, except in as far as they remove offenders temporarily from society and thus limit their ability to commit further crimes.

Secure and Intensive support measures

A very small number of children will require the additional security of a secure placement or of an Intensive Support and Monitoring Service (ISMS), with or without an additional Movement Restriction Condition. For most of these children, the prime reasons will centre on their offending behaviour, but not for all – some of them will require this support primarily for their own protection.

Where children have been referred to these services, the ability to work with them in a far more controlled and safe environment may well generate the changes in their behaviour that less intensive measures have thus far failed to achieve.

Before authorising a secure placement, panel members must demonstrate at the hearing and in their reasons that they have fully explored alternatives, and must be clear why it is better for the child to be placed in secure than not.

When dealing with secure placements, panel members should bear in mind that any measure that means the child has to be taken out of the secure placement – for appointments or treatment outwith the unit, for example - involves a considerable disruption to their lives, and may well entail a strip search on their return.

Please see *“Legislation and Procedures”* for further details of the legal requirements.

DOES ANYTHING WORK?

Despite the admitted difficulties, there has been evidence in Scotland e.g. Freagarrach Project, Aberlour Crannog Project, and elsewhere in recent years that some approaches can be effective in changing the behaviour of young people and significantly limit their offending. The key to this is a whole problem approach; structured programmes that focus on behavioural change, addressing offending behaviour, and skill development rather than loose models of counselling and support.

Effective intervention

The most effective interventions will include:

- models of intervention that are backed by research evidence to show they work
- a variety of approaches – work with individuals, groups and families
- focus on the nature and consequences of the offending behaviour, including the victim’s perspective and the impact on communities
- emphasis on problem solving and the development of thinking and reasoning skills
- concentration on personal and social skills to build self esteem
- community based rather than residential supervision
- work with parents to involve them in the supervision process.

Restorative justice

Restorative justice models embrace the above key points and aim to repair the harm done – to victims, offenders and communities. The main elements of restorative justice are:

- responsibility – holding young people to account for their misbehaviour and to develop responsible behaviour
- restoration – exploring the possibility of making amends to victims and/or the community
- re-integration – providing the support, assistance, guidance to enable the young person to grow into a responsible adult.

This problem solving approach can include everyone affected by the behaviour of the young person. It can include the victims, offenders and their communities. It enables victims and offenders to communicate directly or indirectly and for the offender to volunteer to make reparation to the victim or the community.

Communication and dialogue, and the empowerment of all parties, contribute to the prevention of further offending.

WHOLE SYSTEM APPROACH

The following is taken from the SCRA practice note, *Young People aged between 15 and 17 in the Children's Hearings System*

The Scottish Government is currently implementing the 'whole system approach' throughout Scotland. This approach involves putting in place a streamlined and consistent planning, assessment and decision making process for young people who offend to ensure they receive the right service at the right time. The ethos of this approach suggests that we should be seeking to avoid young people entering the criminal justice system unless absolutely necessary. Further information and a full range of guidance documents is available at: [Whole System Approach](#)

This approach was developed as it has been evidenced that by their very nature, young people can present many difficulties, through levels of maturity, self-awareness and identity. Between the ages of 15 – 17 is a time of significant transitions, where support is required to ensure that they achieve their potential and a successful transition is achieved. Recognition that this is a significant period in a young person's life is well documented. This practice note has been developed as it is recognised that the children's hearings system and panel members have in the past, and will continue to have, a vital role in ensuring that young people make that successful transition. The focus of this document has been developed with young people who offend in mind but the principles contained within apply to all young people. To achieve this ethos, we would like to encourage:

1. More young people being remitted from court to the children's hearings system for advice and disposal where their needs as children can be addressed. Work is being done through the Whole System Approach to ensure that remittal to the children's hearings system is included in young people's court reports as an option for the sheriff. Where a case is remitted to the children's hearing system for advice or disposal, there should be a clear plan provided as to what interventions can be undertaken. Work with local authorities and partner organisations is ongoing to help ensure that young people who present a risk of

harm can be effectively managed in their communities and within children's services.

2. The continuing practice of ensuring that young people remain subject to compulsory supervision orders beyond aged 16 (and up to age 18) when this is appropriate and justified. It is recognised that in most cases it is right that compulsory supervision orders are terminated as the young person no longer requires compulsory supervision, and this is of course extremely positive. It is recommended that compulsory supervision orders are not terminated when the following criteria are provided as reasons:
 - they have any outstanding offences. This will likely lead to them being fast tracked into the criminal justice system and often into the prison system
 - they are not engaging with services or workers. In line with the Kilbrandon principles non-engagement can be a reason to ensure compulsory supervision is in place;
 - the age of the young person (unless approaching 18); In line with current legislation and the United Nations Convention on the Rights of the Child (UNCRC)
 - they are in the adult court system or have been given a custodial sentence. If a young person subject to a compulsory supervision order is simultaneously prosecuted in court, remaining on a compulsory supervision order can provide them with the support they require, which is not dependent on their consent, when going through a complex adult system. It may also compel the court to seek the advice of a hearing prior to disposing of the case, allowing the option of remittal back to the children's hearings system for disposal.

3. Remaining on a compulsory supervision order allows for the young person's needs to continue to be met, family work to continue and could also result in any further offences (especially if committed whilst in secure care/custody) being dealt with through the children's hearings system. Maintaining the compulsory supervision order can provide a significant amount of statutory support during what is likely to be a difficult transition back into the community. Asking or

expecting the young person to actively seek out support, as can happen with throughcare and aftercare is not always in their best interests.

4. Other important factors that will impact on improved outcomes:

- The continued consideration of alternative services to secure care like Intensive Support and Monitoring packages. The Children's Hearings (Scotland) Act 2011 (s.83) has introduced a new obligation to consider alternatives to secure before a secure care authorisation is made.
- To support the management of some young people who present a significant risk to themselves or others within the children's hearings system, when appropriate services can demonstrate by working together in partnership and following local risk management procedures, that the young person remaining in the community is safe for them and others.
- Work is undertaken with the young person, based on their needs and risks which are reflected in their single plans in order to achieve more positive outcomes.

Supporting Young People Leaving Care Guidance

The general principle is that young people should continue to be looked after until 18 if it is in their best interests. However, compulsory supervision orders are often terminated before that age. If a young person's compulsory supervision order ceases before their school leaving age, they may become ineligible to receive financial support, which those still in care at their school leaving age are able to access.

Local authorities have a duty to carry out an assessment of the needs of **all** young people over school age leaving their care, including those looked after at home. This assessment should determine what advice, assistance and support the authority should provide. The success of throughcare and aftercare depends on a shared sense of corporate parenthood across an authority.

Children and Families and Throughcare and Aftercare services should work together to support the young person leaving care. Children who have been looked after away from home may also be entitled to financial assistance from their local authority up to age 25. Where the compulsory supervision order is removed before the young person reaches school leaving age, this can have a detrimental effect on their ability to access that assistance. The financial support social services can provide is very important as care leavers can only claim DWP benefits at 16 or 17 if they are single parents and those unable to work because of disability or illness.

Compulsory Supervision Orders and their relationship to Through care

It has been highlighted that a perceived barrier to retaining young people on a compulsory supervision order at age 16 and 17 is the need for the young person to move on, for example, leaving the residence of family, or corporate parent. This often requires independent living arrangements and finances. A compulsory supervision order is often cited as preventing the young person acquiring their own accommodation and financial benefits. This should not be the case; as above the Corporate Parent should remain responsible for meeting all of a young person's needs in these circumstances. It may be that the young person cannot access some supported accommodation but there are other options available such as Local Authority housing (with appropriate support) or accommodation supported by third sector organisations. The Scottish Government is working with Local Authorities to support the development of such alternatives.

Where a young person is subject to a compulsory supervision order and preparing to leave care, the Local Authority may wish to consider whether, in addition to statutory support and protection required by the compulsory supervision order, additional support is necessary under through care arrangements either for accommodation or financial purposes.

It is recognised that it is integral to the children's hearings system that panel members listen to the child, their family and professionals in order to make a decision based on evidence. To help in this decision making process, the Scottish Government will also be writing to and supporting social work departments to ensure that reasons put to panel members are not of a negative nature and that appropriate

resources to support single plans are in place. It will also highlight the need for their professional influence on decisions to be based on the GIRFEC principles, the needs of the child, accurate assessments, and not influenced by any other issues, such as resources.

The areas highlighted above will contribute to the success of the Whole System Approach, which ultimately aims to ensure that:

- Fewer under 18s are prosecuted (increased use of diversion from prosecution).
- More under 18s are being supported through children's hearings post 16, where appropriate.
- More under 18s are being remitted to hearings from the courts for advice or disposal, where appropriate.
- Fewer under 18s reoffend within 2 years.
- Fewer under 18s receive custodial sentences as adults.
- Fewer under 18s are remanded to custody (both prison and secure).
- More young people placed in residential and secure care go onto positive destinations (education, employment and training) (link up with information gathering systems through MCMC / LAC).
- Better outcomes for victims and safer communities.

EARLY YEARS FRAMEWORK and CURRICULUM FOR EXCELLENCE

- Build parenting and family capacity.
- Create supportive communities.
- Deliver integrated services.
- Health is crucial service – dealing with both mental and physical health.
- Learning in and out of school.

GETTING IT RIGHT FOR EVERY CHILD

- Dealing with offending.
- Relates directly to needs and behaviour.
- Awareness of victims – reparation / restorative initiatives.
- Supporting parents.
- Appropriate; proportionate; timely and fair.

HIGH RISK OFFENDERS

- Effective interventions.
- Improve range, quality and effectiveness of residential care.
- Keep children out of prison.
- Develop evidence based interventions.

WHOLE SYSTEM AT HEARINGS

Panel members should not terminate compulsory supervision when the following criteria are provided as reasons:

- Outstanding offences (they will then be fast tracked into criminal justice system and perhaps prison).
- Not engaging (this can be a reason to ensure compulsory supervision).
- Being dealt with by the adult system (remaining on compulsory supervision will provide them with continued support; compel courts to ask for advice; allows needs to continue to be met; family work to continue).

PARENTING AND OFFENDING

Research findings consistently make links between parenting and crime. The influence of family and friends were the primary reasons for their offending behaviour given by young people who offend (Audit Commission '*Misspent Youth: Young People and Crime*' HMSO 1996). If other family members within the household are involved in crime there is a high probability that the child/young person will offend.

A self report delinquency study '*Young People and Crime*' by the Home Office (Graham and Bowling 1995) showed that:

- Young people who were offenders are less likely than non-offenders to have close relationships with their families (either birth, adopted or extended).

- Parental supervision was strongly related to offending. Young offenders are less likely than others to receive effective supervision from their parents or carers.
- Offending behaviour is linked to harsh and erratic discipline at home.

There is little doubt that parenting behaviour does have an impact in either reducing or increasing the likelihood of criminal activity among young people. A significant number of young people in the criminal justice system have experienced public care and corporate parenting. Many of them are not only less likely than non-offenders to have close relationships with their families they are less than likely to have close relationships with anyone. For many, the reasons for their being in public care are likely to be related to ineffective supervision and parenting, including harsh and erratic discipline by their parents or carers.

Parents and carers have a vital role to play in supporting their children and preventing offending. Research indicates that an 'authoritative' parenting style is appropriate for adolescents (Coleman *J Key Data on Adolescence* 1999).

Authoritative parents and carers:

- Offer positive role models.
- Set boundaries and structure.
- Offer examples of conflict resolution.
- Provide warmth, concern and support.

The key elements of authoritative parenting are:

- Firm control - being seen to be in charge
- Consistency of discipline.
- Monitoring and supervision.
- Inductive style - reasons for rules.
- Helping the young person to understand his or her parent's perspective.
- Negotiating rather than laying down the law.
- Open communication and a high degree of involvement between parents and children.

Key questions when considering how to meet the needs of a young person

- Is the young person generally within adult control?
- Is the young person being looked after by adults who can use authority consistently, offer suitable example etc.?
- Does the young person have a home base offering appropriate structure, routine and supervision?
- Is the young person attending school and making reasonable educational progress?
- Is leisure time suitably structured?
- Are there opportunities for reasoned discussion and responsible behaviour.

11 DRUG AND ALCOHOL MISUSE

CHILDREN AND YOUNG PEOPLE AND DRUGS, ALCOHOL AND TOBACCO

Introduction

Teenagers in the UK are more likely than most of their European counterparts to have taken drugs, drunk alcohol or smoked.

Smoking Prevalence and Trends

From a survey conducted in 2010 of 13 and 15 year old school children:

- 13 year olds, 3% of both boys and girls were regular smokers
- 15 year olds, 13% were regular smokers (11% of boys and 14% of girls).

Since peaks in 1996 and 1998, the prevalence of regular smoking has substantially reduced over recent years. Among both 13 year olds and 15 year olds, levels are now the lowest they have been since the survey began in 1982.

There was an increase between 2008 and 2010 in the proportion of pupils who reported that they had never smoked, from 75% to 79% of 13 year olds, and from 51% to 55% of 15 year olds.

Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2011 National Report

Drinking Prevalence and Trends

From the same survey conducted among 13 year old and 15 year old schoolchildren:

- 44% per cent of 13 year olds and 77% of 15 year olds have ever had an alcoholic drink.
- This was a decrease in both age groups.

Asked if they had had a drink in the past week (an indication of how much and how regularly children drink):

- 14% of 13 year olds and 34% of 15 year olds reported consuming alcohol in the last week.
- This was a small increase from the 2008 survey.

Longer term trends in drinking

Overall, although there was some volatility in the figures, the proportion of pupils who reported drinking in the week before the survey increased between 1990 and 2002.

- From 2002 to 2008, there was a steady decline, with consumption almost back to the 1990 levels.
- However, in 2010 this trend has ended and consumption has slightly increased.
- This is the case across both age groups and genders.
- In both age groups, the trend over time for both genders has generally followed the same course.

Types of Alcohol Consumed

For boys in both age groups, the most commonly consumed drink was:

- normal strength beer/lager/cider.

The most commonly consumed drink for girls was:

- 13 year olds - normal strength beer/lager/cider (66%) and, among
- 15 year olds - spirits/liqueurs (73%).

Source: Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2011 National Report

Effects of Alcohol on Young People

Alcohol has a stronger effect on young people because of their age, smaller bodies and lack of experience with alcohol. In younger people, smaller amounts of alcohol will therefore lead to higher risks. These can include:

- Aggression, arguments and fights – this could lead to a criminal record.

- Unplanned and / or unprotected sex – possibility of sexually transmitted infections and pregnancy.
- Other drugs – increased risk of trying other substances when drunk.
- Accidents – many young people drink outside therefore can easily be knocked down or fall and suffer hypothermia.
- Overdose – it is possible, particularly for young people to overdose on alcohol. Large amounts of alcohol can lead to drowsiness and / or coma with a high risk of choking on their own vomit.
- Alcohol poisoning – large quantities of alcohol taken in a short time can lead to alcohol poisoning. More than 1000 young people are admitted to hospitals every year with alcohol poisoning.

Drug Use Prevalence and Trends

The same adolescent lifestyle survey looked at drug use and trends:

- 21% per cent of 15 year olds and 5% of 13 year olds reported that they had ever used drugs.
- Boys were slightly more likely than girls to report that they had ever taken drugs
- While between 2004 and 2006 there was a substantial decrease in the prevalence of drug use in the last month, between 2006 and 2008 prevalence decreased only among 13 year old boys.
- Since 2008, prevalence has decreased further only among girls

TYPES OF DRUGS USED

Cannabis was by far the most common drug – particularly among 15 year olds. Ten percent of 15 year olds and 2% of 13 year olds reported that they had used cannabis in the last month. Very few pupils reported using any other drug.

Questions about ‘new’ drugs, such as mephedrone, ketamine, GBh etc indicted that they are having little impact on the overall levels of drug use.

Source: Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2011 National Report

Researchers have also found that:

- children who were living in families with a low level of parental supervision were eight times more likely to have started to use illegal drugs than children whose parents exercised a high level of supervision
- children living in families where other people were using illegal drugs were seven times more likely to have started to use illegal drugs than their peers.
- drug use was also associated with frequent smoking and alcohol consumption on the part of pre-teens and with involvement in a wide range of other problem behaviours at a young age (committing acts of vandalism, skipping school, being in trouble with police and carrying a weapon).

There is also a need for parents to exercise much higher levels of supervision today than at any time in the past given the greater availability of drugs.

Children and Cannabis

Some of the links between young people's tobacco and cannabis use are now well established. We know that most cannabis users smoke cigarettes and that for some people, tobacco may act as a 'gateway' to cannabis.

VOLATILE SUBSTANCES

Volatile Substance Abuse (VSA) can satisfy a youthful need to experiment. The buzz created by volatile substances, and the hallucinations which may accompany this, can provide new sensations in a culture which strives for even greater thrills.

It is almost impossible to draw up a definitive list of the full range of products that can be abused. It is estimated that in the average home, there are around thirty products with the potential for abuse.

Considerations for Panel Members at Hearings

When considering the issue of young people and drug misuse it is helpful to remember that:

- many young people try drugs but not all of them become problem users.
- for children and their families there is a fear that, in seeking help, child protection measures might be taken.
- there is a fear of being stigmatised.
- any intervention must address the underlying reasons for the misuse.

RISKS AND HAZARDS IN DRUG MIS-USING HOUSEHOLDS

All drug use carries risk but problem drug use in a house where children or young people live poses particular risks and hazards including:

- Chaotic lifestyles which disrupt children's routines and relationships, leading to early behavioural and emotional problems
- Family income may be diverted to buy drugs, leading to poverty, debt and material deprivation. Children having inappropriately high levels of responsibility for care of parents with problems of substance misuse, or care of younger siblings
- Children's early exposure to, and socialization into, illegal drug misuse or other criminal activity

With so many risk factors it is tempting to think that all children must be immediately removed from the risk and that there is little or no hope. However, the impact will vary according to the age and developmental stage of the child. Risks may well be mitigated by other protective factors:

- A consistent and caring adult, who will provide for the child's needs and give emotional support
- Regular monitoring and help from health and social work professionals
- An alternative safe residence for mothers and children subject to domestic violence and the threat of violence
- Regular attendance at nursery or school
- Sympathetic and vigilant teachers

- Belonging to organized out-of-school activities, including homework clubs

The Impact on Children and Young People

Notwithstanding these mitigating factors, there is no doubt that for a significant number of children the substance misuse of their parent will have a real impact on their health and lifestyle.

Considerations for Panel Members at Hearings

In any hearing, a major consideration must be “what is in this child’s best interests?” In cases such as these, there needs to be a balance between removal and support. This requires a risk assessment, both by the social work department, and by panel members in coming to their decisions. Crucial questions are:

- Is the parenting good enough?
- Are enough of the mitigating factors present, or could they be put in place, to reduce the potential impact on the child?
- Are the parents capable of making changes to their lifestyle and child rearing skills in a timescale that makes sense in terms of the child’s life?

When putting a section 67 ground to adults who appear to be under the influence of drugs, consideration should always be given to their ability to comprehend what is being asked of them, with the option of referring from proof to protect their rights, and those of the child.

12 CHILD ABUSE AND CHILD PROTECTION

Child abuse is a term that covers a wide range of different conditions from neglect to sexual abuse. It is also a concept that has changed over time.

'Throughout history there are accounts of the customary extremes in the chastisement of children. Pepys beat his boy until he (Pepys) was out of breath: John Wesley, Frederick the Great, Lady Jane Gray, and many others in adult life complained bitterly of their treatment in childhood. It is always taken for granted that the parents and guardians of children had every right to treat their children as they saw fit.'

S K Radbill, *A History of Child Abuse & Infanticide* 1968

Knowledge of the different ways in which adults might abuse children has developed greatly since the identification in America by Kempe in the 1960s of 'the battered baby syndrome'. This was greeted with horrified disbelief around the world. The mid 1980's saw the gradual public recognition of sexual abuse of children. The same pattern of high profile media attention and widespread public denial followed by gradual acceptance of the existence of the problem starting with the Maria Caldwell Inquiry in 1974; the Cleveland, Rochdale and Orkney Inquiries in the 80s and 90s; the Kennedy McFarlane, Dumfries, inquiry in 1997; the Victoria Climbié inquiry in 2003; the Western Isles child abuse enquiry in 2005 and the 'baby P' case in 2007.

During the thirty years of the children's hearings system, statistics have shown a dramatic change in the balance of referrals to the children's reporter. In the early years most children referred to hearings were alleged to have committed an offence. By the early 1990s this balance had shifted to one where more children were referred on care and protection matters than for offence grounds. Currently the offence ground account for only 20% of referrals. (SCRA annual report 2010/11)

By their very nature, cases involving neglect or abuse are likely to require compulsory intervention to protect children and are therefore most likely to be

referred to hearings by the reporter. They will probably also be the most complex and difficult cases to handle, and the most stressful for all concerned.

CHILD ABUSE AND HEARINGS

Abuse takes many forms. Concerns are relevant if the child is suffering, even if the parents' behaviour is not deliberate or they have their own problems – e.g. immaturity, alcohol / drug abuse, mental health problems. A child may be at risk of significant harm which can have both short and long term effects and in extreme situations may result in permanent damage or death.

Significant Harm

“Significant harm is a compilation of events, both acute and long-standing, which interact with the child’s ongoing development, and interrupt, alter or impair physical and psychological development.”

(A Bentovim (1991) Significant Harm: Management and Outcome Edit. Adcock, White, Hollows)

Being a victim of significant harm is likely to have a profound effect on the child's view of him or herself as a person and on their future life including:

- making and sustaining relationships
- communication skills
- attitude towards authority figures
- sense of self and self-esteem
- capacity to judge people and situations
- sense of responsibility
- morality.

Physical Injury

Actual or attempted physical injury to a child, including the administration of toxic substances, where there is knowledge, or reasonable suspicion that the injury was inflicted or knowingly not prevented.

Physical Neglect / Abuse

This occurs when a child's essential needs are not met either by commission or omission and this is likely to cause impairment to physical health and development. The term 'non-organic failure to thrive' is no longer used as a separate category of abuse, it being generally covered by other categories. Its use referred to situations where, without specific identifiable causes, a child was not thriving, but did so when moved to alternative carers, often making significant growth spurts to do so.

Key issues:

- learned patterns of behaviour – the scapegoat, the provoker, the hider, the caretaker
- these learned behaviours often mean they are **either**
 - particularly vulnerable to further abuse if alternative ways of having their needs met are not learned **or**
 - the child learns to hide their own needs and care for others
- each of these children runs the risk of not having their needs for safe dependency met.

Major considerations:

- is the child basically loved but over-chastised on a one off basis **or**
- is the physical abuse the only physical contact received in an otherwise neglectful environment?

Healthy recovery in the former is much more likely than in the latter.

Emotional / Psychological Abuse

This comprises failure to provide for the child's basic emotional needs such as to have an effect on the behaviour and development of the child.

Emotional abuse

“Sustained, repetitive inappropriate emotional response to the child's expression of emotion and its accompanying expressive behaviour.”

Keiran O'Hagan

Psychological abuse

“Sustained, repetitive inappropriate behaviour which damages or substantially reduces the creative developmental potential of crucially important mental faculties and mental processes of a child, including intelligence, recognition, memory, attention, language and moral development.”

Key Issues:

- the attachment relations at home available to the child
- the effects of the parenting on this child's development – how might emotional abuse harm the child's development?
- what signs might we see in reports and / or parents' accounts of their child in the hearing?
- considering when compulsory supervision might be necessary.

What helps:

- identifying gaps in development
- creating an environment which reverses negative messages regarding the child's worth
- nurturing which meets the stage the child has reached in emotional terms
- reaching out to the child to build self esteem
- confirming progress and setting realistically stepped challenges for achievement
- working with parents to help them understand gaps
- modelling nurturing parenting while giving parents a real place with the child.

Sexual Abuse

Any child may be deemed to have been sexually abused when any person(s), by design or neglect, exploits the child, directly or indirectly, in any activity intended to lead to sexual arousal or other forms of gratification of that person or any other person(s) including organised networks. This definition holds whether or not there has been genital contact and whether or not the child is said to have initiated, or consented to the behaviour.

This will also include allowing children to view, or exposing them to, pornographic materials, DVDs etc.

Focusing on whether compulsory supervision is necessary – for example:

- if the child is not supported at home / is blamed / is scapegoated
- is likely to be under pressure to withdraw allegations
- voluntary measures are NOT likely to allow for the matter to be considered in a way that is “in the child's best interests”.
- the child’s view may be: “I can’t stop this because of threats”, “I’m bad”, “I’m dirty”, “This happens to everyone else”.

Factors affecting the impact of abuse:

- age of child
- relationship to abuser
- duration and frequency of abuse
- use of force
- type of abuse
- degree of disbelief
- degree to which child re-victimised by the system.

Effects of sexual abuse on development of the victim / survivor:

- lack of self esteem
- poor sense of self and boundaries
- inability to express full range of feelings
- communication problems

- impaired capacity to judge people and situations
- sense of responsibility for what has happened
- moral development / sexual development / making and sustaining relationships
- authority issues

What helps?

- believing the child
- affirmation of feelings
- increasing self-esteem
- recognising abuser's responsibility
- recognising survival tactics
- identifying triggers
- identifying communication patterns
- building new ways of coping with stress and asking for support.

Forced Marriage

A forced marriage takes place when the bride, groom or both do not want to get married but are forced to do so by others, usually their families. People forced into marriage may be tricked into going abroad, physically threatened and/or emotionally blackmailed to do so.

Forced marriage is wrong and cannot be justified on any religious or cultural basis. This is not an arranged marriage - in an arranged marriage both the bride and groom choose whether or not they want to marry the person suggested to them by their families. In a forced marriage there is no freedom of choice.

Where it is suspected that a child is being or may be forced into a forced marriage or forced civil partnership or is, or is likely to become, a member of the same household as such a child, this may be subject to specific section 67 ground – see “Legislation and Procedures”.

Multiple Abuse

Children may experience a combination of several of these types of abuse. Emotional abuse, for example is usually a feature of other types of abuse.

New Technology

Children may be at risk of abuse from a variety of new technologies. Known sometimes as 'cyber bullying' this may involve: abusive texts, emails or other messages; creating abusive and hurtful websites; photographing children inappropriately or persuading children to pose for inappropriate pictures and also the posting of these online; the impersonation of younger people via social networking sites, with a view to meeting privately for the purposes of other abuse.

Offenders may be adults or other children.

CHILDREN AS ABUSERS

Children may come to hearings on grounds that they have committed offences against other children. They may well be in need of skilled professional help and panel members need to know where this is available. If offences have been committed against younger siblings, panel members will have to consider the welfare of these children and the effect of the events on the whole family.

DOMESTIC ABUSE

The incidence of domestic abuse is significant:

- For Scotland as a whole, in the year 2009/2010 there were 51,926 recorded incidents
- Strathclyde Police recorded 29,000 cases in the year 2011/12, an increase of 6.8% over the previous year

The Children's Hearings (Scotland) Act 2011 contains a specific ground that:

(f) the child has, or is likely to have, a close connection with a person who has carried out domestic abuse

The term 'abuse', is defined as in the 'Protection from Abuse (Scotland) Act 2001' – *"abuse" includes violence, harassment, threatening conduct, and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress.*

The reasons behind this ground are that domestic abuse does not just affect the adults concerned. Where women are abused, in over 50% of cases so too are their children and 90% of violent situations are witnessed by children. Children themselves can be assaulted because they just get in the way, they are victims of a separate assault or it is a combined assault. In a third of cases children are trying to protect their mothers.

Effects of domestic abuse on children include: feelings of guilt; shame; powerlessness; anger; responsibility; feelings of fear/anxiety leading to low self esteem and lack of confidence; nightmares; disrupted sleep patterns; bed wetting; eating disorders; depression; withdrawal; passivity; aggression; disruptive behaviour; disruption at school - too bruised to attend; caring for mother/siblings; moving home; suicidal/self harm feelings. It can also involve isolation from friends. Children may act out violence with friends/family and feel betrayal when their mother supports the abusing partner. For some children the answer is running away or leaving home as soon as they can.

For further information, see: www.scottishwomensaid.org.uk

ROLE OF THE PANEL MEMBER IN THE HEARING DEALING WITH ABUSE

- use reports and the hearing process to weigh up risks of 'significant harm'
- consider the degree of protection available to the child
- consider what changes are required to meet the child's needs:
 - does either parent perceive/acknowledge that there is a problem
 - have reasonable steps been made to support parents in understanding the needs of the child
 - do parents understand the significance of their responses to the child
 - what must change to meet the child's needs
 - what signs of improvement will you be looking for
 - how will you know when things have improved
- assess the capacity of the parents to make the changes:
 - do they understand the concerns
 - are they willing to make changes
 - have attempts been made to help them and with what success
 - are the expected changes to their behaviour reasonable in the light of the child's needs and the parents' circumstances
- consider what is the least detrimental intervention to the child to take **now** to protect their best interests:
 - is there a realistic care plan to maintain collaboration and co-operation from parents
 - how will this alternative care meet the child's needs
- consider what measures if any need to be attached to a compulsory supervision order.

Tips

It is helpful if panel members:

- are very clear about areas of concern – e.g. lack of affection or encouragement, excessive chastisement
- are clear about expectations – what will parents be expected to do?
- have considered how will we know when things have improved?

- think about parent's behaviour in relation to CONTACT when the child is away from home
- Look out for any positive indicators that the child is doing well
 - 'good enough' attachment in early years
 - pleasure in the relationship
 - 'availability' of carers
 - realistic expectations by parents
 - setting of healthy limits for child by parent.

What panel members *do not* do in the hearing

- make a diagnosis
- probe for disclosure
- assess 'signs' in the hearing
- offer therapy.

What panel members *do* in the hearing

- identify the areas of concern
- consider how best to protect the child both short term and long term
- make clear what expectations the hearing has and of whom
- identify how improvement will be assessed (contact might be significant).

We acknowledge the work, support and permission of Sally Wassell in preparing this section.

CHILD PROTECTION: A SHARED RESPONSIBILITY

Panel members will deal with cases involving a variety of forms of child abuse. However, not all children at risk of abuse, or who have been abused, come to hearings. Other processes may have been introduced before a child is considered in need of compulsory supervision and is referred to the children's reporter. Child abuse and neglect also have implications for other agencies, such as social work, education, health, the police and the procurator fiscal. Each of these agencies makes a distinctive contribution to safeguarding children's welfare within a context of shared understanding and collaboration.

In all investigations or child protection plans, the child's welfare is the paramount consideration. Children with disabilities or whose racial, ethnic or cultural background is different may have additional needs which require careful consideration. Churches and other voluntary organisations in Scotland work with children and provide a wide range of services and programmes aimed at preventing or reducing the risk of child abuse or neglect, or in helping families recover from child abuse.

What mechanisms are in place to ensure joint working to protect children?

Child Protection Committees

Local authorities are required, either on their own, or in collaboration with other authorities, to have an inter-agency child protection committee. These committees have clear procedures and guidance for dealing with child protection referrals and for providing advice across the agencies. The agencies are also required to provide appropriate training for their staff. Procedures need to be flexible so that, in appropriate circumstances, families can be diverted away from the child protection system when it is not, or is no longer required, or to be brought in when necessary.

There must also be procedures for liaison and co-operation between staff undertaking child protection inquiries and the children's reporter. The agencies involved in the child protection committees, jointly and separately, maintain records on the child protection referral and the outcome. The child protection committee also arranges access to specialist advice across agencies.

The locality reporter manager is usually a member of the local child protection committee. The reporter may take action to protect a child in certain cases when the procurator fiscal is not able to bring criminal proceedings because of lack of sufficient evidence. If a children's hearing makes a compulsory supervision order in respect of a child, the local authority should ensure that all other agencies involved with the child and family are informed.

Child Protection Case Conferences

Multi-agency case conferences are an essential feature of inter-agency co-operation to protect children. They enable agencies to consider all information about allegations or suspicions of child abuse and neglect and the outcome of child protection inquiries. They assist planning to help families and welfare agencies ensure that a child at risk is properly protected from harm and, when necessary, to ensure that concerns are registered (see below). Parents and carers and, where appropriate, children are encouraged to attend case conferences about their family.

Case conferences should take account of children's views and feelings, having regard to their age and understanding.

Protection, treatment and other services for the child and family should be based on a comprehensive assessment of the child's and family's needs, including an assessment of the level of risk to the child. Child protection plans are formulated to protect the child from harm or further risk of harm.

Amongst the options available to agencies is the convening of a case conference about an unborn child if there appears to be a risk of significant harm to the child when he or she is born. The case conference may decide that the child's name should be placed on the child protection register when he or she is born and agree an inter-agency child protection plan. The conference may recommend that the local authority seek a child protection order at birth.

Child Protection Register

Local authorities are responsible for maintaining a central register, known as the child protection register, of all children who are the subject of an inter-agency child protection plan. The authority may have its own register or may maintain a combined register with other authorities.

The decision to place a child's name on the register should be taken by a child protection case conference, or the chair of the conference, when there are

reasonable grounds to believe or suspect that a child has been suffering, or will suffer, abuse and neglect, or the child is at risk of suffering abuse or neglect, and an inter-agency agreement is needed to protect the child. One or more of the categories for registration must be met and it must be considered that, for the child's safety, an inter-agency child protection plan is required. The child protection plan provides a framework for inter-agency assessment, casework and review.

The register is maintained by the social work service and must be held separately and in secure conditions. Access to the register is available twenty-four hours a day.

The keeper of the register (a designated local authority official) should notify other local authorities in writing when a registered family moves into or out of their area.

The keeper is also responsible for attempting to trace a registered child whose whereabouts have become unknown.

Joint Investigation – Police, Social Work and Health

Joint investigation is a process whereby social work, police and health professionals plan and carry out their respective tasks together when responding to complex or substantial child protection referrals. In any such investigation the welfare of any child or children at risk is the paramount consideration.

The police and social work service should share and evaluate jointly all relevant information at an initial planning meeting, involving health services wherever possible since medical information and assessment may assist the planning and management of any inquiry. Planning should consider the child's needs, risk, and the conduct of the child protection inquiries and any criminal investigation.

13 PERMANENT PLACEMENT AWAY FROM HOME

'However adverse a home, the child lives in familiar surroundings and is looked after, however inadequately, by familiar people. Being taken from it means the collapse of a world he has accepted and trusted as the only one he knows. The younger the child, the greater the distress at being removed to an unfamiliar environment. The more limited his understanding of verbal explanations, the greater is his likely bewilderment and the more difficult the task of restoring his sense of security; also he may feel that it was his naughtiness which led to his being sent away.'

(Pringle MK, *The Needs of Children* 3rd edition, London, Hutchinson 1986 p133)

The right to be brought up in a loving family is enshrined in the UN Convention on the Rights of the Child. This right is further endorsed by the Children's Hearings (Scotland) Act 2011, and the European Convention on Human Rights. The need to be brought up in a stable secure environment is essential for all children and for most children this will be their biological family.

For some children alternative families have to be found. In general, children for whom a return home is not going to be possible should be the subject of an application for a permanence order or an adoption order at court. The legal process is explained in the section on Law and Procedure and the resources that are needed are covered in the section on Roles, Responsibilities and Resources.

LEGISLATION

Various elements of the legislation allow panel members to have some influence on permanence and long term planning decisions for children [see Legislation and Procedures]. When an application regarding permanence is about to be lodged at court, regarding children who are subject to a compulsory supervision order, a hearing will be asked to provide a report for the court. When considering the long

term care of the child, the influence of, and attachment to, the natural family cannot be ignored.

The general principles - that the child's welfare is the paramount consideration, that the views of the child should be sought and taken into consideration and that no order should be made unless it is better for the child that it is made - apply also to decisions taken for the long term care of the children. This means that for some children the ties will be broken but, for others, contact with their natural family will to a greater or lesser extent, continue. This will affect not only children but also those who take responsibility for them in the future.

When considering giving such advice some understanding of loss of attachment and permanency is needed.

European Convention on Human Rights

Under Article 8 everyone has the right to respect for private and family life. This means that when hearings are making decisions regarding the long term care of children, although the welfare of the child is their paramount consideration, they must also have respect for, (and record) the views of the relevant persons.

ATTACHMENT

Attachment is defined as:

“An affectionate bond between two individuals that endures through space and time and so serves to join them emotionally.” (Kennell)

Attachment Helps Children To:

- attain full intellectual potential
- sort out what s/he perceives
- think logically
- develop a conscience

- become self reliant
- cope with stress and frustration
- handle fear and worry
- develop future relationships
- reduce jealousy.

Role of the Family

The need to be brought up in a stable secure environment is essential for all children. Children have the right to stay with their parents whenever possible (and safe for them to do so); to have contact with both parents; to have their culture, race, religion and language considered. For some children this care and security will be provided in a new / substitute family.

The family provides children with:

- a primary caretaker for the child
- care from specific adults to whom the child can become attached
- continuous contact with these adults on a day to day basis
- continuous but changing relationships with a small number of individuals
- safety and security
- stimulation and encouragement for growth
- reasonable expectations / experience in identifying and expressing emotions
- support in times of stress.

BUT THESE CAN BE PROVIDED BY PEOPLE OTHER THAN THE CHILD'S NATURAL FAMILY

These are the things that should be available to a child moving to a new home - but the need to know “who am I, and where do I come from?” should never be neglected or ignored no matter how hard this is for the adults involved with the child. Panel members may have to explore these issues with the social worker when providing a report for the court.

Issues surrounding attachment are discussed in part 3 of this section.

The Role of the Panel Member

When considering a long term / permanent placement panel members will need to find out:

- the child's stage of development in relation to their age
- previous separations and how the child was helped
- the kind and quality of the child's attachment and what work is being undertaken to build a secure attachment
- strengths / resilience of the child and the parents
- the child's behaviour
- child's relationship with carers.

BUT

- KEEP CHILD'S NEEDS IN MIND AT ALL TIMES.
- REMEMBER CONTACT CAN BE INDIRECT.
- CHILD'S WELFARE IS PARAMOUNT.

We acknowledge the work, support and permission of Sally Wassell in preparing this section.

CONTACT

General Principles

- principles regarding contact are enshrined in the Children's Hearings (Scotland) Act 2011 and the United Nations Convention on the Rights of the Child
- if a hearing makes a compulsory supervision order, there is an obligation to consider whether or not a direction regulating contact
- the child's welfare is the paramount consideration
- relevant persons' responsibilities and rights are protected by the hearing offering at all times full explanations and inviting full participation in the decision-making process
- a high priority must be given to retaining links between the child and the relevant persons (and other close family, including siblings)

- contact should only be restricted in order to protect the child from emotional and physical harm, or to ensure the success of an agreed long term plan for the child's future
- contact should only be terminated in exceptional circumstances - and must be justified in the reasons for the decision.

The Local Authority

- have a general duty to promote, on a regular basis, personal relationships and direct contact unless it would be harmful for the child for them to do so
- follow a code of practice
- follow the principle that children should, whenever possible, have contact with their families
- are obliged to involve relevant persons at all stages and to seek their views
- the aim is for most children to return to live with their parents.

Disagreements about Contact

When there is a disagreement between the relevant persons and the social work department on a contact issue, a children's hearing may need to intervene. In a small number of cases contact may not be in the child's best interests. In particular, that would apply where there is **evidence that contact between a child and relevant persons is causing the child any physical or emotional harm.**

Where a hearing is requested to consider modifying or terminating contact, this should be done on the basis of such contact truly endangering the child's emotional and physical well being, rather than that contact "isn't doing much good".

In addition, in a small number of cases where a child on compulsory supervision lives with one parent, it may be necessary to regulate the contact the child has with the absent parent.

If the social work department thinks that there needs to be a substantial reduction or termination of contact, and the child is on compulsory supervision, then a review hearing may be called for the matter to be considered by a children's hearing.

Contact should also be considered by a children's hearing at a review hearing when the local authority are considering lodging a court application for a permanence order. The main purpose of this hearing is to offer advice to the court which will consider the application.

Children's Hearings Role in the Reduction or Termination of Contact

Decisions about a parent's contact with a child are matters which require serious and careful thought. The views of the child need to be considered carefully, along with those of the relevant person/s and social work department. It follows that in these circumstances conflicts may arise between the wishes of the relevant person/s in wanting contact to continue and the best interests of the child. It may be that such conflict extends to the relationship between the parent/s and social work staff who seek to protect the child. There are times in such cases where a hearing may consider asking for further information before reaching a decision. This may be in the form of an assessment, for example, by a psychiatrist, or an independent report may be requested from a safeguarder. Any decision will need to take account of all relevant circumstances.

Key Points for Hearings

- What is the overall plan being proposed for the child? Is it one that you would agree with in general?
- Is the hearing satisfied that it has all available reports that could help in reaching a decision on the question of contact?
- Is there contained within the body of the reports - most crucially the social work report - clearly laid-out information defining the actual difficulties in regard to contact? Is the following information available :
 - **Who is currently involved in contact**
Is it just the parent/s or are siblings, grandparents, or other close family members involved? Will contact with these people be affected, and what will be the effect on the child?
 - **Where is contact taking place?**

Are there difficulties around practical arrangements? (this may include travel difficulties)

○ **How regular is the contact arrangement**

What bearing does the level of contact have on the outcome of the case?

Do all parties (child, relevant person(s), social worker) have a clear understanding of the hearings' expectations – how often, where, for how long, supervised / unsupervised etc.

○ **What is the quality of the contact, when exercised, between the parent/relative and the child?**

Is there sufficient information in the social background report on this point?

Are independent reports required to help you gain an impression about what actually happens when contact takes place?

Don't forget if a child is being looked after by foster carers they may be an important source of information.

- **Is the child's view regarding contact, where this can be obtained, fully referred to in the reports?**
- **Is the relevant person/s' view of contact reflected in reports?**

In relation to both these points, don't make assumptions; panel members should check out for themselves that what is contained in the reports is an accurate reflection of all views.

- **Concerns for the child are relevant** - if the child is suffering, even if the behaviour (usually of parents) is not deliberate, or parents have their own problems - for example immaturity, alcohol or drug addiction, or mental health problems
- **Do panel members need to attach a condition, direction or prohibition?** - how specific should these be - remember non-disclosure of child's address

The Hearing's Decision

If a children's hearing decides to limit or terminate contact, it does so by attaching a 'Measure' (condition, direction or prohibition) to the compulsory supervision order. As always these must relate to the child.

Where it is appropriate, be specific about details of contact arrangements so there is clarity for all parties concerned. In any event, the hearing should be explicit about why the condition or direction has been imposed when stating and writing reasons for the decision.

Appeals

A compulsory supervision order with a condition or direction relating to contact may be appealed in the usual way, that is, to a sheriff within three weeks of the decision of the children's hearing.

Remember

Hearings can attach conditions or directions relating to contact to an interim compulsory supervision order, as well as to a substantive compulsory supervision order. And, where it is necessary to protect the child, you can attach a prohibition withholding disclosure of the child's address. Rights of appeal apply.

14 ASSESSMENT OF CHILDREN IN NEED

Introduction

Whilst it is not the panel member's role to make a full assessment of a child's needs it is important that panel members have an understanding of the elements which may go into the making of such an assessment. This will help in the discussion with the professionals involved in hearings.

What Is An Assessment?

An assessment is the collection and evaluation of information relevant to an identified purpose. It has several phases which overlap:

- The acquisition of information.
- Exploring facts and feelings.
- Putting meaning to the situation.
- Reaching an understanding with the family, wherever possible, of what is happening, to include problems, strengths and difficulties and their impact on the child.
- Drawing up an analysis of the child's needs and the parenting capacity as a basis of formulating a plan.

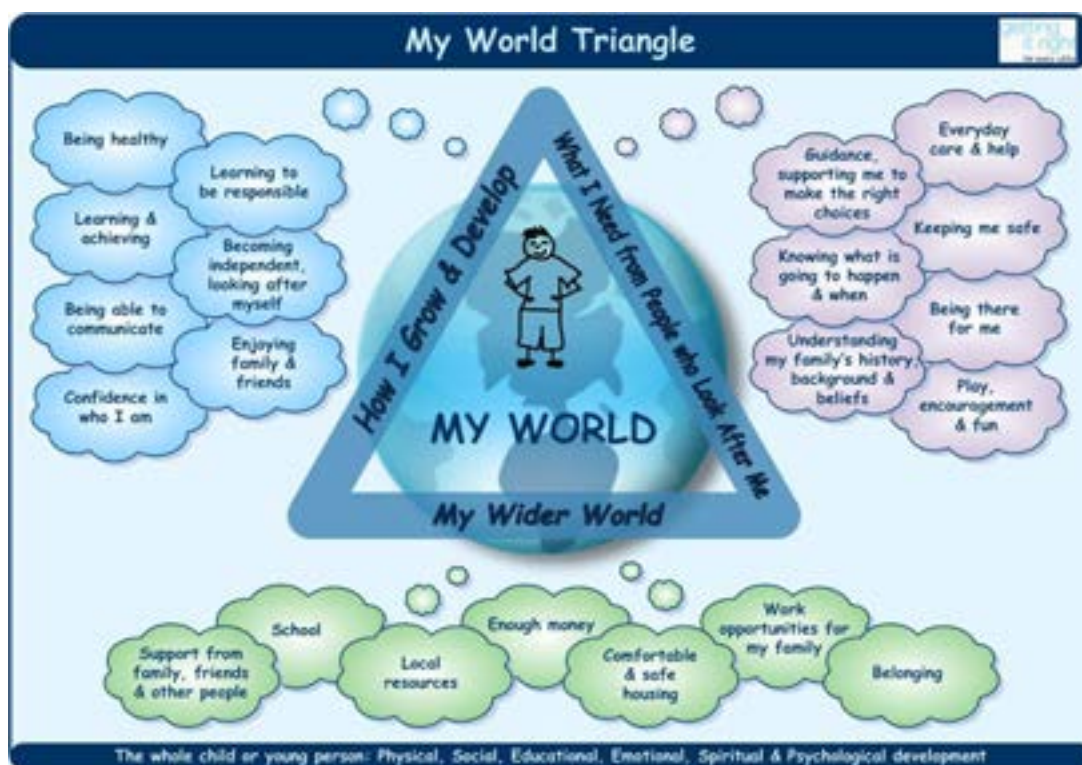
It is the task of the professionals involved to undertake a full comprehensive assessment of the child and family. Families do not want to be subjected to repeated assessments. The process of assessment should cause the least possible intrusion to the child and family.

Panel members will need to take account of what assessments have previously been carried out – by whom, when and how. Information on this should be available in the background reports. In making any assessment of a child in need it is important to use a framework.

INTEGRATED FRAMEWORK FOR ASSESSMENT

The *Integrated Framework for Assessment* is the tool being used by local authorities in Scotland and is part of the Getting It Right for Every Child (GIRFEC) initiative. Getting it right for every child is a national programme that is changing the way adults think and act to help all children and young people grow, develop, and reach their full potential. This framework is the foundation for safeguarding and promoting a child's welfare and identifying whether their health and development is being or is likely to be impaired by their present circumstances. It represents a way of trying to show the complexity of a child's world and to construct a coherent way of collecting and analysing information about a child. It is based on the assumption that any assessment of a child and his or her family which aims to understand what is happening to a child should take account of the child's developmental needs, the parents capacity to respond to those needs and, the wider family and environmental factors. The interaction of these three systems or domains have a direct impact on the current and long-term wellbeing of the child – see figure 1

Integrated Framework



CHILDREN'S DEVELOPMENTAL NEEDS

Children develop along several dimensions and a series of developmental tasks must be completed successfully if optimal outcomes are to be achieved.

Health

Includes growth and development as well as physical and mental wellbeing. Is the child taken to the doctor when ill, does the child receive dental and optical care? Does the child have a nutritious diet? Have they received immunisations?

Education

Covers all areas of cognitive development from birth onwards. Are there frequent opportunities for play and interaction with other children? Do they have access to books? Are they given opportunities to acquire a range of skills and interests? Is a parent / adult interested in the child's educational activities?

Emotional and Behavioural Development

Concerns the appropriateness of response in children's feelings and actions, initially to parent/parent figures and then to others. Children need security and consistent boundaries within a context of emotional warmth and approval.

Identity

Concerns the child's growing sense of self as a separate and valued being. Children's needs are likely to be met if they encounter positive role models of their own gender and culture; if they are frequently praised or encouraged; if there is an openness about relationships within the family.

Family and Social Relationships

This involves the child's ability to make friends and get on with other people. They need opportunities to socialise.

Social presentation

The child's growing understanding of the way in which their appearance and behaviour are perceived by the outside world. Do parents take an interest and make sure that they are reasonably clean, pay attention to personal hygiene and are appropriately dressed, bearing in mind their age, gender, culture and religion.

Self care Skills

Both practical and emotional competence that all children need to acquire if they are to achieve independence in adulthood. This starts with learning how to dress and feed themselves, going on to cross roads safely and, as young people approach independence, budget and cook.

Each child will develop at a different pace and specific objectives can be matched with the parental tasks required to help the child achieve them.

PARENTING CAPACITY

There are a number of key parenting tasks which are prerequisites for a child's wellbeing and development.

These tasks will apply differently to children according to their stage of development. A key feature of parenting is the capacity of the parent to adapt their behaviour appropriately to the age and stage of development of the individual child. If a parent is experiencing difficulties in his or her parenting tasks then knowing the family history, assessing that parent's understanding of the impact on the child of what is happening both to him / herself and the capacity to adapt and change is crucial.

Basic Care

Providing for the child's physical needs and appropriate medical and dental care including appropriate clothing, shelter, food, and drink.

Ensuring Safety

Ensuring that the child is adequately protected from harm or danger from hazards and danger in the home and elsewhere, from contact with adults or other children and from self-harm.

Emotional Warmth

Ensuring that the child's emotional needs are being met and giving the child a sense of being specially valued. Child should receive praise and encouragement.

Stimulation

Promoting child's learning and intellectual development through encouragement and promoting social opportunities. Ensuring school attendance or equivalent opportunity. Helping child meet challenges in life.

Guidance and Boundaries

Enabling the child to regulate their own emotions and behaviour. Key parental tasks are demonstrating and modelling appropriate behaviour and control of emotions and interaction with others. Helping child to develop an internal model of moral values and conscience.

Stability

Providing a sufficient stable family environment to enable a child to develop and maintain a secure attachment to the primary care giver/s.

Mental illness, problem alcohol and drug use and domestic violence all affect parents' emotional and behavioural responses which will impact on their parenting capacity. When parents have difficulty in organising their own lives they fail to provide consistently for their children.

FAMILY AND ENVIRONMENTAL FACTORS

Bringing up a child does not take place in a vacuum. The influence on family members include the immediate environment of the family such as accommodation, work and income, as well as the networks of wider family, neighbours and friends and the community with its facilities of shops, transport, playgrounds, schools, clinics and other services. The presence or absence of these factors and the extent to which they support or undermine the family's functioning are all relevant in the assessment of what is happening to a child and the family.

Family History and Functioning

The following aspects need to be considered:

- Who is living in the household and how they are related to the child?
- Significant changes in family / household composition.
- History of childhood experiences of parents.
- Chronology of significant events and their meaning to family members.
- Nature of family functioning, including sibling relationships, and its impact on the child.
- Parental strengths and difficulties, including those of an absent parent.
- The relationship between separated parents.

Adverse family circumstances interact with one another to increase the likelihood of the child's health and development becoming impaired. Certain features in parents' histories and circumstances, including a history of psychiatric problems or offending, low socio-economic status, marital discord and poor parenting when found in combination, should alert workers to the potential for the child requiring the provision of services to safeguard and promote their welfare. It must be remembered that many children can successfully overcome early disadvantage.

Wider Family and Social Support

- Who are considered by the child and parents to be members of the wider family? This includes related and non-related persons and absent wider family. What is their role and importance to the child and parents and in what way?

- What is the degree of the family's integration or isolation, its peer groups, friendship and social networks and the importance attached to them?

It should be recognised that network relationships can be sources of both support and stress so it is important that assessment considers the content and quality of relationships within networks to understand the influence they are likely to have on parenting capacity and child development.

Social Integration, Housing, and Community Resources

The communities and neighbourhoods in which families live can have a major influence on both parenting capacity and children's development. Professionals need to consider:

- An exploration of the wider context of the local neighbourhood and community and its impact on the child and parents.
- Whether the accommodation has basic amenities and facilities appropriate to the age and development of the child and other resident members. This includes the interior and exterior of the accommodation and immediate surroundings. Basic amenities include water, heating, sanitation, cooking facilities, sleeping arrangements and cleanliness, hygiene and safety and their impact on the child's upbringing.
- The range of facilities and service in the neighbourhood.

Aspects of the physical environment may also influence social interactions and behaviour. Some locations, e.g. shops, can facilitate social exchanges whilst others like the design of the housing estate can increase levels of crime and disorder.

Income and Employment

The links between inequalities in income and health are well documented. People living in poverty are more likely to suffer ill health, disability, and premature death than their more affluent counterparts. Poor health and disability also contribute towards the risk of experiencing poverty.

A CORE ASSESSMENT

This is a means of acquiring and synthesising information that will assist practitioners and their managers making decisions and planning for children and families. The following questions are centred on the three domains of the Framework for Assessment:

The Developmental Needs of the Child

- What are the developmental needs of the child?
- How are these needs being met by the parent / child?
- Are other people meeting any of these child's needs?
- Which needs are not being met?
- What is the likely outcome for the child if these needs remain unmet?

Parenting Capacity

- What are the parenting strengths and weaknesses in terms of the dimensions of parenting capacity?
- What parenting issues impact on parenting capacity?
- What is the parent's attitude to the concerns expressed by the referrer and / or other professionals?

Family and Environmental Factors

- Are there members of the extended family or other people who could meet the child's needs?
- Are there members of the community network who can meet the unmet needs of the child?

Some of the important questions that will determine the purpose of assessment are for example:

- What are the strengths to be built on?
- What are the difficulties which need addressing?
- What are the best options for the child?
- How will this child cope with services / interventions?
- How well is this child doing (following intervention / services / placement)?

- What is the impact on the child and family?
- Does the plan need amending?

Critical is the importance of not repeating assessments unnecessarily but thoroughly reviewing information already gathered and careful planning any further assessment and intervention with the family and between agencies. Effective collaborative work between professionals is essential.

OBSERVATION

It is very helpful to observe adults and children together in order to assess the quality of their relationship and the child's attachment to each parent. Also child and sibling interactions and behaviours could be important as well as observations of the child in the company of other adults may confirm or otherwise the parent's picture.

Information on this should be included in reports for hearings. If it is not, you may wish to ask if this has taken place and what conclusions have been reached.

ASSESSMENT OF FAMILIES FROM ETHNIC MINORITIES

Cultural differences will affect the three domains of development needs, parenting capacity and family and environmental factors.

Children from minority ethnic groups have specific identity needs related to knowledge about origins of self, culture, and identity. There may be basic care needs and minority ethnic children will have additional needs to those of white children. These include skin products and dietary requirements. Account should also be taken of different approaches to parenting tasks. Stereotyping and making erroneous assumptions should be avoided. There may differences in the use of language and, difficulties in interpretations could lead to a worker drawing the wrong conclusion.

Summary

It is important that panel members have an understanding of what might be included in an assessment. It will assist them to consider issues in a meaningful context as

well as how the specific aspects of a child's life will be affected by those various influences.

Information in this section has been taken from:

'The Child's World – Assessing Children in Need' editor Jan Howarth, Jessica Kingsley, London, 2001

15 SUMMARY

When making decisions about children at hearings, panel members have to consider each child as an individual. This means taking account of age, stage of development, family circumstances, health, ability and social environment. All these external and internal factors affect children as they grow and will have an impact on their past, present and future.

Sometimes children put themselves or other people at risk by their own behaviour. Often it is other people's behaviour that causes children to be at risk. Whatever the reason for the child's appearance at a hearing, panel members must remember to consider the child 'as a whole'.

16 FURTHER READING

- Pringle MK (1986) ***The Needs of Children*** Hutchinson, London
 3rd edition A 'classic'. Easy to read and combines deep concern with profound insight into many of the problems that present themselves in the course of a child's development.
- Lindon J (2001) ***Growing Up: from eight years to young adulthood***
 National Children's Bureau, London
 The sequel to Child Development considers the changes facing children from middle childhood to the brink of adulthood. A very useful and practical guide for use by parents and professionals alike
- Gehart S (2004) ***Why Love Matters*** Routledge, London
 A robust exploration of recent research findings into how experiences in early childhood can influence development for the lifetime to follow.
- Szalavitz M and Perry B (2004)
Born for love Harper Collins, London
 An examination of how and why the brain learns to bond with others
- Anon ***At what age can I ?*** (2009) Scottish Government website
 What children can do at their age from 0-21
- Hill M et al ***Children's Services – Working Together*** (2012) Pearson, London
 An examination of the policy, theory, research and practice relevant to all professionals who work with children.

Communication



COMMUNICATION

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1 INTRODUCTION

Communication is the basis of children's hearings. Good communication in a hearing ensures that all involved will come away feeling listened to and that the decisions made were based on the best information available, including the views of the child.

Hearings are intended to be a process of two-way communication.

This section will examine what is meant by communication; giving explanations; nonverbal communication; talking to children and to adults; questioning and listening techniques; written communication; and dealing with sensitive and difficult situations in hearings. It also explores how diversity may affect communication and ways in which communication can be adapted to suit different needs.

2 WHAT IS MEANT BY COMMUNICATION?

Communication encompasses the spoken word and its interpretation by the listener; the gestures, facial expressions, glances - all the other ways we have of expressing our views with our bodies rather than with the spoken word; and the written word via letters, reports and legal documents. All these aspects of communication feature in a children's hearing and will play a part in how each person present comes to understand or fails to understand what is happening. Some of the legal requirements are framed to encourage communication and stress the importance of it by the use of words - *inform, explain, invite to express views, discuss*.

LEGAL OBLIGATIONS

The Chairing member must inform those present at the hearing of the substance of any relevant report or other relevant document Rule 61(2)(a)

The chairing member may invite any other person present at the hearing as the children's hearing considers appropriate to express their views on or provide any other information relevant to any matter or action being considered by the hearing Rule 61(2)(c)

Communication is not straightforward. It requires a sender of a message and a receiver. The receiver will interpret the message sent according to his or her past experiences, level of development and understanding, current emotional state and his or her understanding of what is at stake as a result of the message being given.

WHAT IS EFFECTIVE COMMUNICATION?

Effective communication occurs when both the sender and receiver are sure that each understands the message sent. This means that the sender must give clear messages which match both verbally and non-verbally. Sometimes the words used may be inviting and hospitable but the tone of voice and body language conflicts with this, e.g. a mother saying to a teenager "*I said you could go out*", but the tone is

harsh, the facial expression tense and arms folded. The teenager might then be confused – should he or she obey the spoken word and go out or follow the interpretation of the body language and stay in? Good communication should allow both the sender and receiver the opportunity to check with each other that the message is clear.

Listening is also an important part of good communication. If the receiver of a verbal message has developed good listening skills then the sender will feel respected and thus may be able to explain or discuss matters in more depth. Good listening allows the receiver to pick up the feelings behind the words.

BARRIERS TO EFFECTIVE COMMUNICATION IN HEARINGS

The communication process during a hearing is highly complex. Imagine what it must be like for a family to be confronted by strangers whose task it is to discuss the family's most difficult problems and reach a decision about the future for their child.

Children and families are likely to be anxious, distressed, resenting the intrusion into their privacy by strangers, and very conscious of the power the panel members have to intervene in their lives. It is therefore important that surroundings are made as welcoming as possible and, before the hearing starts, consideration should be given as to how the room is arranged (within the limitation of the furniture and space in the hearing room). The timetable may be tight and tension will increase if a family is kept waiting. There is pressure on panel members to get the legal procedures correct, but they should also try to achieve a supportive atmosphere which encourages children and families to express their points of view freely and thus contribute to the decision-making.

English might not be the first language of a child or parent. A family member may have learning difficulties or a health problem which may affect their capabilities to hear, speak or understand. Panel members and professionals may use professional jargon which is not understood by the family. Social workers and other people attending hearings all have their own worries and concerns. With so many built in

barriers to good communication, it is hardly surprising that young people and families sometimes fail to understand what is going on and express a critical view of hearings.

“The way they do them isn’t good, the way they sit, big table, chairs- we’re sitting down from them. That’s not right. The child feels intimidated- they’re sitting down from them. They’re sitting there in the spotlight” Zoe, 13

3 NON-VERBAL COMMUNICATION

When people communicate face-to-face less than 10% of the impact comes from words that are said. Over 90% of the impact is determined by nonverbal communication. Non-verbal messages are received in various ways, e.g. through sight, or hearing. They are an important and often unconscious factor in communication.

In a children's hearing, panel members will be picking up non-verbal signals about the family and vice versa. Although it is important to be aware of these signals they are not always easy to interpret and it is important not to jump to conclusions. The interpretation needs to be checked out e.g. a young girl might be wriggling around in her seat and taking no notice of what is being said to her - this may mean that she is bored by what is going on or it could mean that she wants to go to the toilet but is afraid to ask!

There may be cultural differences which will effect both the behaviour itself and its interpretation. For example in some cultures avoidance of eye contact with figures of seniority and authority is considered to be respectful.

"Why do they have their hands under the table? We know it's the buzzer- they expect trouble." Ross, 14

"I was too nervous; I just sat beside my Mum playing with her rings." Anna, 12

SIGHT

This includes outward appearance: clothes, hair, make-up, cleanliness, signs of ill health, appearance in relation to age. Body language is important in terms of facial expressions which may reveal mood or emotions, avoidance of eye contact. Some people will sit straight; others slumped down, some with arms crossed. There may be close contact between family members or none at all. People may use gestures; have trembling hands, wriggle, and yawn. However, it is important not to rely on body language alone as appearances may be deceptive.

It is important for panel members to think about how they sit during a hearing, where they look, whether they smile, frown, nod their head, sigh, tap fingers, click or point pens, and flick through reports. All these will give messages to others which might mean the difference between a productive and a non-productive discussion.

“They should have a smile on their face, so when you walk in you feel confident and comfortable telling them what you want” Iona 12

SOUND

The tone of voice used can indicate a person’s feelings more than the words that are being used. The volume too may be a helpful indicator. Some people may talk rapidly when nervous - others may stammer and stutter. Some might use silence to give them time to think about their answers. Panel members should not rush in to fill a silence - they should try to allow time for people to gather their thoughts. To be an effective communicator, panel members need to ensure that their body language and tone of voice match what they are saying. Problems can arise when they say one thing, but look and sound as though they mean something else.

“Just lots of adults jabbering away” Hamish, 10

SELF AWARENESS

Communication is a two way process. When we speak face-to-face with someone else their senses are taking in what we look like and how we sound. Their brain interprets all this based on their past experiences and view of the world. Meantime we are doing something similar. People behave differently in different situations.

Panel members should not be too influenced by their first impressions. They should check the facts before making judgements about others. It is important for panel members to be conscious of their own feelings, attitudes and values and how these may colour their decisions and lead them to jump to conclusions.

They need to be aware of the messages they are giving out during the hearing - their own stress, anger, embarrassment may influence how they react.

“They had a bit of an attitude actually- they were nice to me but the way they spoke to my Mum was rude and disrespectful- like they were higher than us.”
Zoe, 13

4 COMMUNICATING WITH CHILDREN

CHILDREN'S VIEWS

The Children's Hearings (Scotland) Act 2011 reinforces the right of children to be consulted about decisions in their lives, in keeping with Article 12 of the UN Convention. In making decisions about children, hearings must go through four specific stages:

1. Ask the child whether the reports accurately reflect the views they have expressed
2. Give the child an opportunity to indicate whether he or she wishes to express any views to the hearing,
3. If so, give the child an opportunity to express them,
4. Have regard to the views expressed by the child.

In doing this, panel members must take account of the age and maturity of the child; There is a presumption that a child of twelve years of age or more will be mature enough to form a view. However this does not mean that the views of children below this age should be ignored. Even very young children can make important contributions to hearings if encouraged to do so in appropriate ways. The Rules also allow the child to express their views in writing or on audio or video recordings.

Though hearings will not always make the decision that the child wants, the child's views must always be an important factor contributing to the decision. Conversely, panel members must respect the right of children not to express views.

"I felt they kind of listened." Lottie 7

Children's Experiences of Hearings

Panel members often find children reluctant to talk at hearings. Many children find panel members scary, and preoccupied. Various research studies have shown that almost all children and young persons who have had some experience of children's hearings have found them scary unless they were too young to understand what was going on. Older children describe being 'nervous' because:

"It's frightening to have to go and talk in front of lots of people." (Thirteen year old boy)

"They are all strangers. I don't know them, but they know all about you." (Thirteen year old girl)

As young people become more familiar with the system over time, exposure to it becomes less nerve wracking:

"The first and second time I found it hard to speak. Then I found it easier at panels after that."

Children and young people's experience varied. Those who had positive experiences commented that:

"It's not too bad"

"You think everyone will shout at you but they don't. They act normal."

"They were listening (you could tell they were listening) because of the way they were answering back"

Those who had more negative experiences commented that panel members were not really listening to them because:

"They shuffled papers... while I was speaking."

"They didn't look at you."

"They wanted me to talk about my mother but she was sitting there right beside me. How could I do that? It was so embarrassing."

"You can't tell what they are saying because they use a lot of long words, like jargon."

CHILD'S STAGE OF DEVELOPMENT

A child's age may have a bearing on their understanding about what is taking place at a hearing. However, age itself may not give a clear indication of what stage the child has reached. Some background knowledge of child development will give some indication about how children of particular ages are likely to respond in hearings. There are no hard and fast rules and there is no way that a child's or a young person's developmental level can be assessed in the few minutes available in a hearing, but it is useful to operate from some basic knowledge of children's thought processes, needs and likely reactions at different stages.

Language is shaped by experience. Children pick up the words in their vocabularies first from what they see, hear and experience around them and then from listening to how those words are put together in sentences. Children learn, for instance, from the people around them what the function of a question is. *'Do you want another biscuit?'* is probably a request for information; *'Do you want to get hit?'* probably is not. Children learn how they are expected to talk to adults and other children. Not all families put the same value on words and how they should be used.

Younger Children

Young children need to feel it is safe and appropriate to talk. With pre-school children, there is obviously a need to concentrate on using simple language: it's no good asking a five-year-old who has been battering his little sister what he understands by 'sibling rivalry'. Children of this age group think in a very concrete way, with themselves at the centre of their world, surrounded by their immediate family. They are mainly conscious of actions; they can recall facts and events and can express clear feelings. They tend to react spontaneously but have a short concentration span. This has implications for the kind of questions to ask *'Who takes you to school in the morning?'* *'What do you do when your mum and dad are arguing?'* It may be helpful to start with an easy, introductory question and then expand it in greater depth: *'Tell me what you do at playtime'* *'What happens when the other boys take your ball?'*

Young children can easily cope with *what? who? where?* questions seeking factual answers. *When?* is harder as they have a hazy idea about time. They find *why?* more difficult as they don't understand the notion of cause and effect - that one thing was actually the result of another. Also *why?* is often associated with blame and scolding – '*Why on earth did you leave your bike out in the rain?*' A child under eight is unlikely to be able to identify shame and guilt. They see this more as a function of getting caught - the presence of a disapproving adult rather than an emotion arising in themselves.

They understand and can express basic feelings - happy, sad, scared, and angry. As early as three to four, children learn to mask real feelings as they become aware of what is expected and approved of. At around six they begin to realise that it is possible to feel one way and act another, that they can intentionally deceive if they have reason to do so, either in self-protection (not to get into trouble) or to protect someone else from distress. If their own survival depends on these skills, they can acquire them much earlier. This can be important for children in families where abuse is taking place who may want to avoid giving answers in hearings.

From a very early age, certainly by the start of primary school, children become skilled at testing adults' likely reactions before committing themselves to an answer. Most children will look for approval and panel members need to be able to reassure them that it is safe and appropriate to talk. Though they have developed in understanding and ability to express themselves, children of this age still regard themselves as powerless in comparison to grown-ups. It is important to know that the child has understood what he or she has been asked.

Young children rarely ask questions or request more information when they don't understand what is being asked of them. They are more likely to try to give some sort of answer in order to please a persistent questioner, but they may in fact not have understood the question at all. In fact most children when asked the question '*do you understand?*' will answer '*yes*' even if they don't understand what has been asked of them. This has particular implications for the chairing member of a hearing putting section 67 grounds. Panel members must find ways of checking that children have really understood, for example getting child to repeat in his own words what the

section 67 grounds are. Some children are reprimanded if they say 'no'. Parents and adults may say to them 'don't say no to me' so they are afraid of answering any question with a negative. It is important to aim for simplicity and clarity, using simple words and short sentences and to have one idea per question or sentence.

"The whole thing was boring- booooooooooooooooooring." Olly, 10

"Sometimes I say I understand when I don't, just for them to be quiet."

Gemma 12

Teenagers

In the teenage years, children learn to think out issues and to express more complicated feelings and ideas. They begin to judge adults and compare them with others. They may suffer embarrassment because of some aspect of their parents' behaviour. They are self-conscious and searching for their own identity in relation to people around them. They become interested in emotions and abstract issues - life, death, love, sex - and will discuss these with their contemporaries, but many have great difficulty in talking about their feelings with or in front of their parents, let alone during a hearing.

Teenagers will react very negatively to being patronised. This age group may find difficulty in speaking out in front of their parents, especially about problems which are personal to them. Panel members should try to explain why they want to know the answers to their questions. Young people should be given the chance to say what *they* want and in some way set their own agenda.

"I don't feel they listened to me at all! Everything I said they were speaking over me, or speaking to the social workers about everything... there were so many adults there, they all got spoke to then I got spoke to last. It was "So Clair, what do you think of this?" Clair 15

"Often they're talking to your key worker, not us- they should be talking to us"
Eddy 15

COMMUNICATION IN THE HEARING

The purpose of communication in a children's hearing is for panel members to gather information in order to make a decision on what is in the best interests of the child.

Explanations

In order to secure a child's participation in a hearing it is important that he or she knows what is going on. Clear and concise explanations are essential to achieving this. They are important for the following reasons:

- to make clear from the beginning that the child's contribution is important
- to let the child know the subject of each part of the discussion and why issues are being discussed
- they alert the child to when topics are changing
- panel members can check on the child's understanding of the words being used
- they allow panel members to frame statements in terms of the child's experience
- panel members can check for miscommunication on the part of the child and on the child's understanding of language and expression.

Children's Strategies for Dealing with Hearings

Children have been observed to adopt a number of strategies.

They may:

- Act normally (This is most likely to be the case when dealing with younger children aged five and under who have little understanding of what a hearing is about).
- Engage in dialogue with panel members (Some children, once they have got over their nervousness, respond to panel members' attempts to engage them in discussion about their future and participate as best they can).
- Tell panel members what they think the hearing want to hear, rather than expressing their own views.

- Rely on an adult to express their views for them. Where a child trusts the social worker or another adult to express his or her point of view, the young person's position should not be prejudiced by the lack of participation.
- Try to make themselves invisible. In many cases children and young people feel embarrassed to be in the company of adults at a hearing and long to get it over with. Sitting slouched in their seat, their body language and demeanour signal their desire to be anywhere but at the hearing.
- Disengage from proceedings. In some cases young people attempt to retain control over their situation in a hearing through defiance. They refuse to acknowledge panel members' authority over their person. They may shout and swear at the panel members and even storm out of the hearing room.

Helpful Strategies

Various strategies may be used to support and encourage children and young people in the setting of a hearing. Some of these involve using the legal powers outlined in the section on Legislation and Procedure.

- Sometimes one panel member will strike up an instant rapport with a child. It may be best to let them continue, even if it means that member does most of the talking.
- The child can bring a representative who may help him or her to talk. This may be a lawyer or a trusted adult.
- Young people can be helped to write a letter for the hearing or to complete the form entitled 'All About Me' which is sent to them by the reporter. This allows them to identify the issues they think are important and can provide a useful starting point for discussion. They may also be encouraged to use video or audio tapes. However they need to know in advance that any report they provide will automatically be sent to relevant persons as well as to the panel members and that tapes will be played at the hearing.
- A safeguarder can be appointed by a hearing or a pre-hearing panel. Their report must be submitted within 35 days of their appointment, if they are unable to provide the report within the timescales an interim report may be submitted

- Where a Pre-hearing panel has decided that in order for the child or any relevant person to participate effectively in the children’s hearing it is necessary for the child and relevant person to be legally assisted and it is unlikely that the child or relevant person will arrange to be legally assisted, the reporter must notify the Scottish Legal Aid Board of the hearing’s decision and reasons and give them the name and address of the child or relevant person
- A children’s hearing may decide that in order for the child or relevant person to participate effectively in the hearing it is necessary that the child or relevant person be legally assisted; and it is unlikely the child or relevant person will arrange to be legally assisted. In this circumstance the hearing will defer making a substantive decision and direct the reporter to notify the Scottish Legal Aid Board of the decision and reasons and the name and address of the child or relevant person. Legal Aid will automatically be available to children at second working day hearings, custody hearings, and any hearing considering secure accommodation.
- Panel members may consider whether in order to obtain the views of the child it is necessary to exclude some people from part or parts of the hearing. Exclusion of any person must be because it is necessary to enable the hearing to ascertain the views of the child, and/ or their presence is causing, or is likely to cause the child significant distress. On their return the chairing member must disclose what has taken place.
- Similarly, if members of the press are present, they may be excluded if their presence is considered to be causing or likely to cause significant distress or inhibiting for the child. In this case panel members may, but are not obliged to, inform them of the substance of what has taken place in their absence.

WHAT IF THEY JUST WON’T TALK?

Panel members can point out that they are there to listen to the child’s views to help them come to a decision. However, panel members should beware of being too persistent. Children may eventually give some kind of an answer just to bring the questioning to an end, even if it is not true or they have not understood the question. Panel members should not feel they have failed because they have not succeeded in

getting the child or young person to talk. If a child decides to remain silent that is their right and choice.

A CHECKLIST FOR CHILD-FRIENDLY LANGUAGE

Panel members should ask themselves the following questions about their use of words:

- did I use easy words instead of hard words?
- did I use specific names and places instead of pronouns and adverbs?
- did I break long sentences/questions into shorter ones that had one main idea in each?
- did I avoid legal words and phrases? Was I alert to my use of words that mean one thing in everyday life but something else in law?
- did I avoid using negatives if I could?
- was I careful about the 'Why?' and 'How?' questions? In addition, to ensure that they are keeping in step with the child, panel members should ask themselves:
 - did I make it clear at the beginning that the child's contributions, comments and questions were important?
 - did I let the child know what each subject of discussion was, and why we were discussing it?
 - did I frame my questions in terms of the child's experience?
 - did I run a check on the child's understanding of my language and explanations?
 - did I allow sufficient time for the child to process my questions and explanations?
 - when I shifted topics, did I alert the child to the fact that I was going to do so?

Things to Remember

Panel members should:

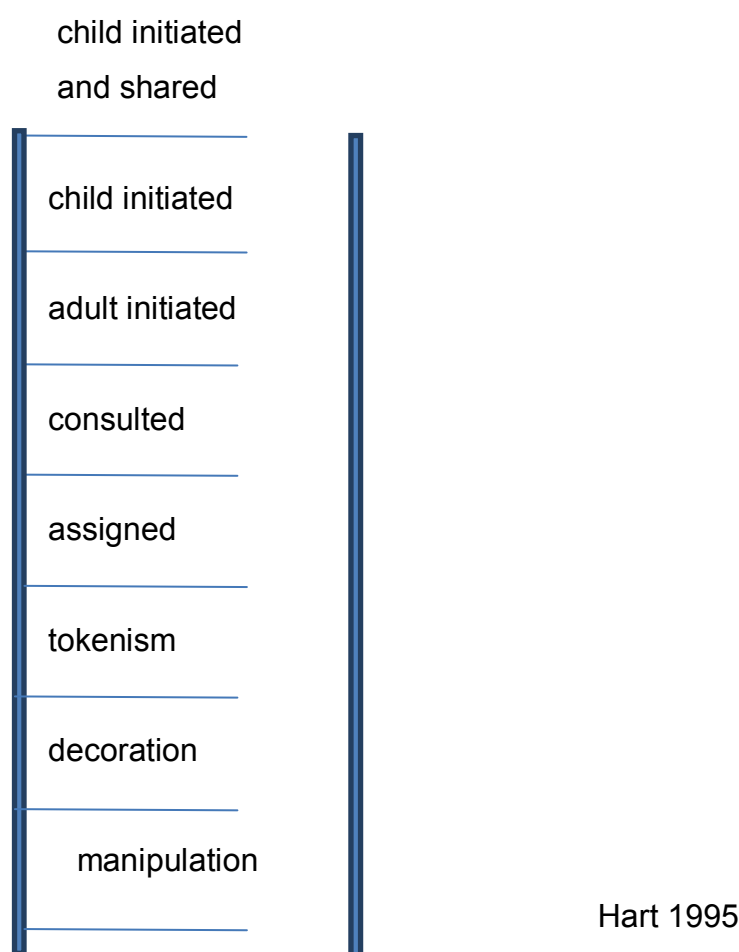
- listen to the child's language - they should try to make their language fit the child's level of understanding
- keep in mind that experience shapes language use and understanding - every child is unique

- listen to their own language and questions
- be alert to the fact that young children both use and interpret language very literally
- not take for granted that they know what the child means, or that the child knows what they mean
- keep whatever they say short and simple.

CHILDREN'S PARTICIPATION IN HEARINGS

The *Ladder of Participation* as described by Hart in a UNICEF commissioned Essay called "*Children's Participation: from Tokenism to Citizenship (1992)*" offers a way of thinking about the participation of children and young people in hearings. There are eight rungs on the ladder starting at the bottom with *manipulation* and ending at the top with *Child-initiated, shared decisions with adults*.

Ladder of Participation



The bottom three rungs of *manipulation*, *decoration* and *tokenism* involve very limited participation. Children are "manipulated" when they are involved in promoting an issue, but have no understanding of it. E.g. when a child is told that they know they have to go to school by law. Hence they do not understand their involvement. Similarly, "*decoration*" involves children to bolster an issue.

"*Tokenism*" takes place when children are apparently given a voice, but in fact they have little or no choice about the subject or the style of communicating it, and little or no opportunity to form their own opinions. This can take place when a child is told at the beginning of a hearing that it is 'their' hearing and they are the most important person there, but then the discussion ranges between the relevant persons and the professionals and the child is not fully involved. The remaining five rungs of the ladder represent increasing levels of participation.

There are a number of important requirements for a hearing to be fully participatory:

- The children understand the intention of the project (i.e. the hearing).
- They know who made the decisions concerning their involvement and why.
- They have a meaningful rather than decorative or token role.
- They buy into the aims for the hearing after the purpose of the hearing was made clear to them.

Children can be *assigned but informed where* the aims of a project (i.e. the hearing) remain defined by adults and children are given specific roles in the project and understand their tasks and the aim of the project.

Children can also be *consulted and informed where a* project (i.e. the hearing) is designed and run by adults, but children understand the process and their opinions are treated seriously.

The three highest levels of participation are the most difficult to achieve partly because of the responsibilities of adults and partly because of the tendency of adults to take directive roles. These levels involve situations where decisions are genuinely shared with children.

(adapted from 'Children's Participation: from Tokenism to Citizenship', Hart (1992))

5 COMMUNICATING WITH ADULTS

The number of adults at a hearing can vary considerably. The chairing member has a duty to keep the number of people present to a minimum. Limiting the number can help to ensure that the atmosphere is relaxed and as informal as possible. However, this needs to be balanced against the contribution which people involved with the child's life may make to the hearing. The reason for their presence should be clear. Each should be treated with respect. The principles of communication with children also apply. Language and literacy difficulties often run in families. Some specific points for panel members to consider follow.

Relevant Persons

Relevant persons will be expected to talk to the hearing about their family life, their ability to care for the child, and their feelings about the situation. They may not have had much experience of talking about such things to each other, let alone to three strangers with the child and professional people present.

Comments made by some parents on their experience of hearings include:

"I was so worried I couldn't concentrate."

"They ask too many questions, by the time you've understood, they've moved on to something else."

"It's my impression that panel members always take sides with the social worker."

Whatever the reason for the child being present at the hearing, relevant persons must be given the opportunity to put their views and to have those views taken into consideration. They must be treated fairly.

Representatives

Participation in a hearing and pre-hearing panel not only involves an understanding of the process but the ability to communicate and make one's voice heard. The child and each relevant person is entitled to be accompanied by a representative at a hearing and pre-hearing panel to assist the child or relevant person they are

accompanying. This may mean that they may speak on behalf of that person or just be there for support. They should be asked for their view about what should happen.

Professionals

It is important to allow professionals and others who have taken time to attend the hearing to have their say. The writer of a report should have the opportunity to discuss it. If he or she is making a recommendation they should comment on why that one has been put forward and whether other courses of action were considered and discarded.

Someone who has been living in close contact with a child, for example, a foster carer or key worker will have a particularly valuable contribution to make. A social worker or safeguarder who has helped to prepare the child for the hearing may be well placed to encourage him or her to express views.

Although panel members may come to know social workers and others who regularly attend hearings quite well, it is not a good idea for them to appear too familiar with them. This can give the impression to the family that there has been collusion and the outcome of the hearing has been decided beforehand. If it would assist the discussion of the case, and the chairing member consents, the reporter may briefly outline the options available for a procedural matter, or the outcome of the hearing. The reporter will also alert the chairing member to any procedural or human rights requirements that appear to have been omitted or carried out irregularly.

Reporters

Reporters should not in any way present a case to the hearing or advocate a particular outcome. However, they can give factual information to the child or relevant persons e.g. the likely time frame for a proof hearing in court. Panel members may wish to ask the reporter for their view on a particular issue along with the views of others at the hearing on that issue. They should make it clear to all present why they are seeking that view. If it would assist the discussion of the case, and the chairing member consents, the reporter may briefly outline the options available for a procedural matter, or the outcome of the hearing. The reporter will

also alert the chairing member to any procedural or human rights requirements that appear to have been omitted or carried out irregularly.

Other panel members

Most of the communication during a hearing is between the panel members and the child, family and other professionals. However, panel members do, on occasion, need to communicate with each other.

To help make a hearing run as smoothly as possible, panel members should work as a team at a hearing by:

1. not interrupting the flow of questions from another panel member
2. not labouring their own points at great length and hogging the hearing
3. listening to other panel members. questions and the answers given so they do not go over the same ground.

Special circumstances: Use of Interpreters

The hearing needs to maintain a focus on the best interests of the child, and to endeavour to protect people's rights. Careful use of an interpreter can help in this process.

It may be necessary to use interpreters in a hearing where English is not the first language of a child or relevant persons. When it is known that an interpreter is required SCRA will instruct an interpreter via an approved agency who will attend the hearing. The interpreter will have been advised of the first language used by the child and relevant persons and will be able to interpret in this language.

In many cases the section 67 grounds and other paperwork from the Scottish Children's Reporter's Administration will have been provided in the child and relevant person's native language. This should also be the case with Local Authority Integrated Assessment reports and any other reports relevant to the case. These complex documents would be prepared by a professional translator.

The function of the interpreter

- The interpreter receives information in one language, analyses its meaning and the speaker's /signer's intent and interprets that in a second language.
- Mutual comprehension is the aim – a two way process.
- Interpreting is not the same as translating.

Professional interpreters will:

- adhere to a code of ethics including a commitment to confidentiality, where they belong to a nationally recognised professional register
- act in an impartial and professional manner
- not discriminate against anyone
- be fluent in the specified language
- not pretend to understand when they don't
- introduce themselves and explain their function
- use 'I' as in 'I think...' not 'they think...'
- refer back to the speaker to seek clarification if the meaning is ambiguous or may be misunderstood
- interpret everything said by everyone in the hearing without omitting, adding, condensing or changing anything.

Methods used

Consecutive translation

This form of translation is the most common in the hearing situation.

- using this technique the speaker has to finish speaking before the interpreter begins
- the interpreter may need to take notes while you speak and then relay what you have said.
- this method is structured and requires turn taking which restricts the pace of a normal discussion or conversation.

Intervention by the interpreter is a sign that they are correctly carrying out their function. This will happen if the interpreter:

- can't hear you or you are speaking too fast
- does not understand something

- thinks people are misunderstanding something
- feels there is ambiguity in something said which needs clarification e.g. 'Is your family complete?'

Simultaneous translation (whispered).

Using this method the interpreter translates at the same time as the speaker is speaking. This is highly complex and requires considerable concentration on the part of the interpreter. It is a technique which is often used in courts or at conferences, debates etc.

- it saves time
- it gives immediacy and flow.

Tips:

- have a brief practice before starting
- don't speak too quickly
- use short phrases / questions / statements
- remember the interpreter is one step behind you so can't keep up if you suddenly change topic. It is helpful to signal a change of topic.
- languages have different structures therefore the interpreter may have to wait until you finish a sentence to enable them to construct a grammatically correct translation.

General points

- Considerably more time will be required for the hearing depending on the method involved and because expressing English phrases in another language may require more words.
- The interpreter needs to be perceived by everyone as being impartial.
- Jargon may present a problem to an interpreter – there may not be an equivalent word in the other language e.g. reporter, safeguarder, section 67 grounds, compulsory supervision order.

What you can do to help the process:

Chairing Member	All Panel Members
<p>Briefing and preparation is vital. The interpreter needs to know what you are going to talk about; what sort of things you are likely to say at the start of the hearing.</p>	<p>Consider the level of concentration the interpreter needs to maintain.</p>
<p>Check to see if there are any time constraints on the interpreter's time.</p>	<p>Be clear about the role of representatives – they are not at the hearing as interpreters</p>
<p>Ask the interpreter to introduce him/herself to the hearing generally and to those requiring interpretation.</p>	<p>Talk directly to the child / family and maintain good eye contact (where this is culturally appropriate). Address the people to whom you are speaking not the interpreter.</p>
<p>Explain the interpreter's role and requirement to respect confidentiality and check that the child and family understand this.</p>	<p>Observe any non-verbal communication – body language, facial gestures – but be careful of misinterpreting.</p>
<p>Do not allow more than one person to speak at once – make this clear at the outset.</p>	<p>Use simple, plain English - avoid jargon, specialist terminology and acronyms. Speak slowly and clearly, pausing after each sentence to enable the interpreter to translate manageable chunks</p>
<p>Throughout and at the end of the hearing give the child and family an opportunity to ask for clarification of anything they have not understood.</p>	<p>Keep explanations, questions etc. simple. Do not use long drawn out sentences.</p>
	<p>Be aware of your own non-verbal communication.</p>
	<p>Be aware that the child / family may relate better or more closely to the interpreter than to you.</p>
	<p>Summarise slowly and carefully.</p>

6 QUESTIONS AND DISCUSSION

Asking a lot of questions can be intrusive and intimidating. It is therefore better to use other techniques to communicate in a hearing and to use questions sparingly. It is also important to distinguish between questions which are used for information and those for obtaining views.

Effective questioning will depend on good preparation. When discussing a family's problems, panel members will need tact and a non-judgmental manner. They should treat people with respect and courtesy. It can be helpful if panel members acknowledge the difficulties when approaching sensitive issues, and to try to show respect for families' answers, even if they don't agree with them. Where possible open questions should be used instead of closed questions which only require a yes or no answer. Questions should be asked singly and answers waited for before asking another, rather than asking multiple questions. It is important to finish with one train of thought before moving on to another. In order for people to take in a question properly they need to remember it from the beginning to the end.

Concrete questions *who? what? where?* are easier for children to answer than abstract questions such as *when? why? how?*

What to say and how to say it

Here are some examples of different strategies for discussion. Some will be more helpful than others. Panel members can develop their own awareness by noticing how people exchange information in day to day conversations in which they take part (e.g. with their family or at work). Through practice, observation of others and training they should develop their skills in engaging appropriately with those present at a hearing.

Helpful to the discussion

Concrete questions

Concrete, *Who? What? Where* rather than abstract *When? How? Why?* questions are more likely to get a response and may be useful in encouraging a child to speak at the beginning of the hearing. It can be the case that individuals are not conscious of their motivations and find it difficult to answer abstract questions. Therefore the reply given could be a *“Don’t know.”*

A child’s understanding of *Who? What? Where?* develops earlier than *When? How?* and *Why?* will. For younger children it may be better to avoid abstract questions altogether

Indirect questions

These can be helpful for approaching sensitive issues.

I wonder if you’ve thought about . . . ?

Would you feel able to . . . ?

Have you considered . . . ?

Do you think you could have . . . ?

Clarifying questions

Could you explain a bit more what you mean by . . . ?

Is what you are saying . . . ?

Rephrasing statements

I think perhaps what Mr X is saying is . . .

Maybe what we’re trying to suggest is . . .

I don’t think that is quite what we meant. It was more that . . .

Mirroring statements

These do not really introduce new information but ‘mirror’ or reflect what has already been said by someone else. They can be surprisingly useful. They continue a discussion without complicating the situation by introducing new points. They bounce the conversational tennis ball back into the opposite court. Importantly they pull

together the strands of a discussion and clarify the position of the person who first expressed the views in question. They can be phrased in various ways:

What you seem to be saying is. . .

Your view is that. . .

To sum it all up, you. . .

What you have described is that. . .

Exploratory statements

One advantage of using such statements is that they allow the recipient room for manoeuvre. They can be accepted, denied or modified in an atmosphere containing less risk of confrontation.

I wonder if perhaps. . .

Would it be fair to say that. . .

Are you suggesting that. . .

Interim summing up (checking discussion so far)

If I could just go over what we've discussed so far . . .

Up to now we've only talked about the school problem . . .

So, as I understand it, you are agreeing that . . .

Working together questions (panel members following the same line of questioning)

Could I go on from what Mrs Y was asking . . . ?

I'd like to ask you a follow-up question . . .

Do you think you could explain a bit more about what you were saying to Mr B . . . ?

Expressions of understanding

The basic philosophy of the children's hearing is one of round table discussion in which all parties collaborate in an attempt to set in motion the most appropriate measure to help the child in need or trouble. One of the more useful tools for a panel member to use is a statement which expresses understanding and rapport and which invites continued discussion.

I know it's difficult for you to talk about these problems . . .

This will be upsetting for all of you, but we have to move on to discuss . . .
Please take as much time as you need with your answer . . .
It does seem to me, Mrs Smith, that you have had to cope with a lot of
problems
which other mothers have not had to face.

Unhelpful to the discussion

Closed questions

These questions invite the answer 'yes' or 'no' and are not an effective way of gaining general information. They are good however for checking facts and useful for bringing the conversation back to the point.

Pressurising questions

Don't you think that . . . ?
Have you really tried . . . ?
But surely you understand that . . . ?

Leading questions

You will try and go back to school, won't you?
Wouldn't it be better if you stayed away?

Loaded remarks or questions

These are similar to leading questions. They are questions or remarks where the aim seems to be to provoke guilt feelings, a declaration that the individual has resolved to or has already changed his or her behaviour in a certain direction, or an awareness of the stupidity of his or her behaviour:

You're sorry now you did that, aren't you?
How do you feel now about what you did?
If we place you on a compulsory supervision order, will you promise to attend school?

It is unlikely that a child at a hearing would answer in other than the desired direction.

Judgmental statements

These may be said by panel members in an attempt to 'correct' the ways of the child and family. In the process they display their own attitudes and outlook. An observer at hearings where such statements are used, emerge with a firm impression of the attitudes and views of the panel members and very little idea of the thoughts and feelings of the child and family. Panel members may think that the use of judgmental observations will act as a deterrent to future misbehaviour. There is little evidence that they do.

A mother is the best friend that you can ever have.

You must learn to respect your mother and father and to do what they say.

You are a big boy now and you are not behaving responsibly.

Following up too quickly

It is important to give people time to answer a question. They might need to think through the implications of giving a particular answer.

What do you do in your spare time? (No answer.) Do you like football? Gives room

for only 'yes' or 'no'

Sudden changes of direction.

Interrupting before a speaker has finished or peppering a child or parent with a whole series of unrelated questions are all confusing and unhelpful tactics which do not allow discussion to develop.

Ambiguities, jokes, sarcasm, metaphors, similes should be avoided as should anything which might affect the clarity of language.

7 LISTENING

Listening is basic to all effective relationships. It is the listener, not the speaker, who controls the conversation. It is a skill. Good listeners get listened to. It is not the same as hearing what someone has said. It is possible to hear, understand but not really listen.

In active listening the listener uses various senses:

- listens with the ears to the words spoken/tone of voice
- listens with the mind to understand the message
- listens with the eyes to the body language/posture/bearing/gesture
- listens to him/herself and notes own reactions to the messages received.

Listening is quite different from ordinary conversations and requires full attention and concentration. If the words spoken do not match the behaviour then it is important to check this out e.g. *'Although you have told us that you will do, Mrs X, I have the impression that you are not very happy about it. Perhaps you could help me understand?'*

People can show that they are listening by:

- nodding
- smiling (where appropriate)
- looking at people when they are talking to them
- prompting by saying e.g. yes, *mmm*.
- mirroring back key points of what has been said - summarising
- reflecting back feelings as well as ideas
- checking out what has been said.

Problems of listening

Generally when people listen they only do so to the middle of the statement. Before the speaker has finished delivering the message, the listener has already begun to formulate an answer. This means that the end of the message is missed and the listener may even finish off the sentence for the speaker. People's previous

knowledge and expectations may lead them to hear only what they expect to hear - the message is frequently reduced by eliminating detail. People listen selectively.

The listener may have a hearing problem which may lead to speech not being heard or may be misheard. It is always important to look directly at a person when speaking to them and take care with the rate of speech.

How much information can be held for processing will vary from person to person. The average person aged eight and over can remember and repeat back six and seven numbers. A large number of children and adults can only remember about three or four.

If people have a poor auditory memory then not all the information will be processed and sometimes because of overload everything may be 'lost'.

It is important to keep sentences short and uncomplicated.

8 SPEECH AND LANGUAGE : Comprehension and Diversity

As was stated earlier ability and disability may affect communication. There may be difficulties regarding comprehension (understanding of language), and expression (use of language).

COMPREHENSION

It is important to talk in a way which means one is understood. However this process is more complex when communication is affected by disability.

It is helpful if the hearing can get as much information about child's level of understanding from adults involved with child i.e. parents, carers, teachers, auxiliaries/educational psychologist/speech and language therapist. If necessary someone could be asked to come to the hearing to assist with communication, particularly if the child needs an interpreter. Children may get tired/distracted if sitting for more than 10 minutes. It is important to give child time to respond. Adults who come to hearings with children may also have problems with communication and measures should be in place to assist them with communication.

Hearing impairment

Things which may assist comprehension:

- look directly at person particularly if they use lip-reading
- slow down rate of speech and don't shout
- be aware of positioning. If there is light behind the face of the person speaking a lip reader may not be able to follow
- cut down on background noise and distractions
- use visual clues. pictures, gestures, facial expression
- if an interpreter is used, address the person not the interpreter
- check whether any hearing aids are working
- use age appropriate language
- check whether there are any other considerations-visual impairment, learning difficulties.

Visual impairment

Things which may assist comprehension:

- the person speaking should be in line of sight. The person with visual impairment may have some vision and the speaker's voice should come from in front of them to be natural. It is helpful to think about lighting and positioning. e.g. avoid sitting with the light behind you
- body language or gestures should still be used even though they cannot be seen as they give depth and colour to what is said and allow for a more natural flow of speech restricting them is unnatural
- keep distractions to a minimum. There should not be too many voices coming from different directions
- use age appropriate language

Hearing impaired

- check whether the child has understood what has been said, if not re-ask the question
- check all distractions. people/ noise- are they as minimal as possible?
- check whether the hearing has the child's attention
- ensure the child has ways of verifying what has been said
- child's speech may be unclear, is there someone present who is familiar with their speech and can clarify or interpret
- do you need interpretation of signing/symbols if signing/symbols is used?
- check whether the child has understood what has been said, if not re-ask the question
- check all distractions. people/noise are as minimal as possible

9 WRITTEN COMMUNICATION

The main type of written communication used in the hearing system is reports. Panel members will receive a copy of the Child's Plan and the Integrated Assessment report prior to a hearing.

The Child's Plan will give personal details of the child and family composition, and information as to who holds relevant person status for, and whether they are subject to compulsory supervision. It will list partner agencies involved in the plan. It will contain an Action Plan detailing desired outcomes for the child and timescales, and these will form a basis for the Social Work recommendation to the hearing. There will also be information on what resources are needed to support the Action Plan. There will be a section outlining the child's view of progress and the views of Parents or carers as to how the plan is working.

The Integrated Assessment report will contain input from all the key professionals involved, including school organised under appropriate headings.

There may be a safeguarder's report if a safeguarder was appointed by the previous hearing. If there is no written report from the safeguarder, they may give an interim safeguarder's report verbally to the hearing.

A child or young person may write about themselves and their situation on the 'All About Me' form.

Papers for the Hearing

As well as reports from various sources, the papers sent out before a hearing will include new and/or previous section 67 grounds copies of existing interim compulsory supervision orders, and orders from court existing compulsory supervision orders, reasons for decisions from previous hearings.

Reports are the raw material which panel members use to prepare for a hearing. They enable panel members to learn the facts of the case and to begin to build up a

picture of the child's life. From the reports, panel members can gain a sense of how they will handle a specific issue. However it is always important that they keep an open mind and never prejudge a situation. The initial judgement may alter radically during the hearing when panel members are able to observe first-hand the kind of interactions that take place between family members and the professionals. The hearing offers an opportunity for panel members to form an independent view of the family and to check the professionals recommendations.

Reports should reach panel members no later than three days before the date of the hearing, to allow enough preparation time. The Integrated Assessment Report and safeguarders. Reports must legally be with panel members and relevant persons three days before the hearing. If they are not, the hearing has to consider whether to continue the hearing to another date.

It is recommended that panel members have a preliminary read-through of the papers as soon as possible after they receive them. This lets them check that there are no immediate problems (e.g. that a report is missing, or that there is a conflict of interest because they know someone who is likely to be at the hearing) and begins to let their mind work on the cases they will be dealing with. Then, nearer the date of the hearing, they can go through them in much greater detail, noting points and questions they may wish to ask.

Panel members develop their own methods of taking notes for the hearing. It is recommended that they jot down names, dates of birth and other details to keep in front of them, especially when chairing the hearing. Panel members should try to know the contents of the reports well enough not to have to shuffle through the papers during the hearing. Any pro-forma used by panel members should be completed in handwriting. This avoids family members thinking that the panel members have an extra report which they have not received.

If there are any legal or other points not immediately clear from a panel member's reading of the papers, these can be checked with the reporter prior to the start of the hearing.

The content of reports is strictly confidential, so it is essential that panel members keep all the documentation in a safe place. They must be returned to the reporter at the end of the hearing, and any personal notes made at home or during the hearing are destroyed before leaving the hearing room.

Under no circumstances should a panel member keep any information either handwritten or on a computer about a child and family who has been referred to a hearing.

Information Given to Families

The chairing member has a legal obligation to ensure that relevant persons, and particularly the child, understand what is in the reports by checking facts and discussing issues thoroughly during the hearing. The only exception is the disclosure of information which might cause significant harm to the child or relevant person.

All decisions reached by panel members must be based on information shared with the family during the hearing.

Reasons for decisions

At the end of the hearing, panel members give their reasons for their decision. These should be clear and in language that the child can understand. After the family has left the room, the reasons are written by the hearing on the form provided and signed by the chairing member. These reasons should be clear and simply stated and be as close as possible to what was said. A copy is sent to the child, relevant persons, the local authority, and any safeguarder and a person providing legal assistance for the child, if appointed.

10 SUMMARY

Communication is the process of creating understanding in the minds of others. Effective communicators get their message received in the way they intended it to be received. The children's hearings system is one based on communication. In order that it works well for all concerned, particularly the child, care and attention needs to be given to how messages are given and received.

11 FURTHER READING

- Berne, E (1966) ***Games People Play, the Psychology of Human Relationships.*** Deutsch, London
 Description of the patterns of human communication in terms of games. Contains interesting analysis of dialogues, interpreting what is really being said behind the words.
- Lishman, J (1994) ***Communication in Social Work.*** Macmillan, London
 A comprehensive guide to practical and theoretical issues in non-verbal, verbal and written communication.
- Skynner, R
 & Cleese J (1983) ***Families and How To Survive Them.*** Methuen, London
 Written in the form of light-hearted dialogue between psychiatrist and patient. Explores the complex network of relationships within families.
- The Scottish Office ***Who's Hearing?*** HMSO. (1991) Report of a conference seeking views of children and parents about the children's hearings system.
- The Scottish Office ***Scotland's Children: Speaking Out, Young People's Views on Child Care Law in Scotland.*** HMSO. (1994)
 Report of views of young people on issues of concern to them, such as residential care, education, emergency protection, confidentiality, the representation of children's views. Many of the ideas were incorporated into the White Paper Scotland's Children.
- Walker, A. G ***Handbook on Questioning Children: A Linguistic Perspective.*** ABA, Washington, (1999)
 This book examines the language used when questioning children and gives helpful ideas about how to give clear messages to children.

A Final Word:

“Above all else, even more than resources, although these are essential too, you have to give encouragement. Tell young people they’re OK. And listen to them; listen hard, because that way they’ll begin to believe you mean it”.

Mandy Durlik

Roles, Responsibilities and Resources



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1 INTRODUCTION

The organisation and running of the children's hearings system in Scotland is a complex process to which a range of local and national partners contribute. The system requires that a number of different public agencies as well as specialist bodies constituted expressly for the purpose and individuals with specific appointments discharge their responsibilities effectively and collaboratively.

This section of the manual gives information about the responsibilities of the agencies, the administrative groups and individuals who support the system. The Children's Hearings (Scotland) Act 2011 ('the Act') is the keystone for the reform of the children's hearings system – reform that provides the opportunity to improve the way we support our most vulnerable children and their families. The reform of the children's hearings system is one part of the Scottish Government's work in relation to children and young people aimed at breaking Scotland's historic cycles of poverty, under achievement and inequalities in health, income and outcomes. No matter where they live or whatever their needs, children, young people and their families should know where they can find help, what support might be available and whether it is the right support for them.

Ministers want local professionals to work together to meet the needs of children and young people at the earliest possible stage – so that only those who need compulsory supervision to safeguard and promote their welfare come before a children's hearing.

2 THE ORGANISATION OF THE CHILDREN'S HEARINGS SYSTEM

Scottish Ministers

Scottish Ministers are responsible for the operation of the system, for appointing board members of Children's Hearings Scotland (CHS) and the Scottish Children's Reporter's Administration (SCRA), and approving the appointment of the National Convener.

In general Scottish Ministers have the power to make rules governing the arrangements for and procedures at children's hearings and related proceedings. Scottish Ministers seek to put in place a structure which supports the independence of decision-makers in the children's hearings system while enabling Scottish Ministers to set broad strategic objectives.

Care and Justice Division - Scottish Government

The Care and Justice Division is based at the Scottish Government at Victoria Quay in Leith and it is to the Children's Hearings Team that Scottish Ministers delegate the operational and sponsorship responsibility for the running and monitoring of the system.

The staff in that team are administrative civil servants and are closely involved with policy and governance of the children's hearings system, sponsoring both CHS and SCRA. In addition they are responsible for preparing instructions for the drafting of legal rules for hearings, making recommendations on how to operate changes in legislation and providing general advice on the children's hearings system in the context of children's services and related policy networks.

The branch's policy responsibilities require them to work with a range of interests on children's and mothers' health, parenting, pre-school education and play, youth justice, looked after children, and social services issues.

The wider Directorate's central purpose is to improve the life chances of children and young people by working across government and with delivery partners to support the delivery of effective, child centred services that prevent adverse outcomes and provide early and effective support to pregnant women, children and their families; and to develop the capacity and leadership needed to improve outcomes for users of social services. Their focus is on delivering better outcomes for children, young people and families at risk and through promoting and supporting children's rights. The emphasis placed by Scottish Ministers on prevention, early years and early intervention, based around the Getting it right for every child (GIRFEC) approach drive the priorities of the Directorate.

The Care Inspectorate - (Social Care and Social Work Improvement Scotland)

The Care Inspectorate is the everyday name for the independent scrutiny and improvement body for care and children's services. They have a key role in improving services for adults and children across Scotland by regulating and inspecting care services and carrying out social work and child protection inspections. <http://www.scswis.com/>

The National Convener

The National Convener is the principal officer of Children's Hearings Scotland, and will operate independently to ensure that statutory functions around those aspects of the work of the children's hearings system relating to the children's panel are carried out to a high standard.

The National Convener is required to provide independent and consistent national leadership and ensure that children and young people who attend children's hearings receive consistently high quality decisions which deliver improved outcomes for them.

The 2011 Act provides for appointments of five years. The National Convener has responsibility for the support, selection and training of panel members using

nationally agreed standards in the 'National Standards for Scotland's Children's Panel.'

He/she also has the responsibility for the development and implementation of a framework of quality assurance of panel member performance against the "Revised Competence Framework for chairing members and members of children's hearings".

The National Convener provides leadership and direction for the Children's Panel and works with partners in the system and reaches agreement with them on how best to continuously improve the Children's Panel to achieve best outcomes for children.

The National Convener is also responsible for the previous functions of Scottish Ministers in the appointment of members to the national panel and in running a national training programme.

The National Convener has the responsibility for ensuring that independent and reliable advice is available to every hearing when it is required.

The National Convener advocates for the work of the Children's Panel and has in place arrangements for the accountability of panel members and area support teams (ASTs). This helps allow objective analysis of the effectiveness of the system in improving outcomes for children, and helps ensure that all children, no matter where they live, receive the same standard of service from the system.

The 2011 Act provides Scottish Ministers with the power to remove or transfer functions of the National Convener and to specify the manner or period within which a function has to be performed. This power will not be used to influence individual decision-making by the National Convener. The power gives the Parliament the opportunity to consider proposals for organisational changes and respond quickly to issues such as duplication, bureaucracy and overlap without having to wait for a slot in the primary legislative programme. It allows Parliament to make adjustments to the role of the National Convener subject to Parliamentary scrutiny and Parliamentary approval.

Children's Hearings Scotland (CHS)

In order to ensure that services continue to be delivered locally but to National Standards, thereby improving consistency, standards and effectiveness of hearings a new national body, Children's Hearings Scotland, was established to support the national Children's Panel and provide assistance to the National Convener.

Children's Hearings Scotland was established in July 2011 as a non-departmental public body (NDPB) to ensure that the governance structure is publicly accountable for achieving improvements in the children's hearings system. CHS is overseen by a Chair and Board of 5 members, appointed by the Scottish Ministers through the public appointments process. There will be a principal officer, the National Convener.

The key function of Children's Hearings Scotland is to support the National Convener to carry out his/her statutory independent functions without influencing his/her professional judgements on the standards that are applicable in hearings and how these should be implemented and monitored. Children's Hearings Scotland's board will have responsibility for ensuring that the business of the National Convener is managed effectively and efficiently.

Children's Hearings Scotland may not interfere with the functions of the Children's Panel. This is similar to the relationship between the Principal Reporter and SCRA and is necessary to ensure that the appropriate independence is observed.

Schedule 1 to the Act provides for the board of Children's Hearings Scotland to employ staff, including the office-holders, on terms and conditions which are approved by Scottish Ministers. Children's Hearings Scotland also has back-office functions such as human resources, finance, IT, procurement etc.

In the exercise of its statutory powers and functions Children's Hearings Scotland is required to co-operate with SCRA, the National Convener and the Principal Reporter where there is no conflict of interest.

Children's Hearings Training

The statutory duty for training panel members and others will pass to the National Convener after September 2013.

Until then the statutory duty for training panel members, Area Support Team members and Safeguarders rests with Scottish Ministers who exercise their discretionary power to assist training by financing the provision of Children's Hearings Training Units in four universities (Aberdeen, Queen Margaret, Glasgow and St Andrews). Each unit is headed by a Children's Hearings Training Officer.

Training involves a combination of discussions, group work, lectures, reading, visits to observe resources and children's hearings, and meetings with people who work within the children's hearings system.

The broad aims of training are to help participants to discover the ways in which they can turn their experience into informed practice and to give them the necessary knowledge and skills to help them to fulfil their statutory roles

Area Support Teams (ASTs)

Area Support Teams are there to provide standardised local support for panel members and maintain appropriate links with local authorities.

Schedule 1 to the Children's Hearings (Scotland) Act 2011 provides for the functions formerly carried out by Children's Panel Advisory Committees (CPACs) and local panel chairs to be carried out by the National Convener.

The National Convener may delegate functions to Area Support Teams to maintain links with local communities and provide local support for panel members.

There is a statutory duty for the National Convener to obtain the consent of local authorities on the establishment of Area Support Teams in relation to their location and functions. Local authorities will also be able to nominate people as members of Area Support Teams. This will help facilitate continuous engagement between the

National Convener and CHS, local authorities, panel members and SCRA. Area Support Teams to be staffed by a combination of paid staff and volunteers which mirrors previous arrangements whereby CPACs were supported by local authority clerks. The aim has been to secure the best advantages to the children's hearings system in retaining the experience, knowledge and commitment of volunteers within a more structured system of standardisation.

The main responsibility for the recruitment of panel members is delegated to the Area Support Teams. An AST is responsible for each of the local authorities in Scotland although a number of local authorities are covered by multi-authority ASTs. AST members attend hearings to monitor the performance of panel members, discuss practice and performance matters and identify any training or support needs.

Each AST member receives notes of guidance from the National Convener / CHS on aspects of their role. They also expected to undertake training before taking up their duties and on an ongoing basis as required. The selection of panel members to sit on individual hearings has been delegated by the National Convener to the appropriate Area Support Team. This will help ensure against any risk that the National Convener may seek to influence the performance of members through rota management of panel members for hearings.

Panel Member Representatives (successor roles to authority chairs etc.)

Panel member representatives on the ASTs are responsible for providing pastoral support to panel member colleagues but should not deal with complaints.

It is important that they avoid being compromised if they are simultaneously required to perform the roles of manager of a complaint process and the provider of pastoral support to the panel member about whom, or by whom, a complaint has been made.

The pastoral role to be undertaken by identified AST members would require that they get to know and be known to, their panel members.

There is clearly a limit to the number of panel members that they will be expected to support reasonably well.

For the Area Support Teams which consist of more than one local authority area, an adequate number of panel members should be appointed for each constituent authority. This helps to ensure that a proper network of support is available and that the issues arising within each constituent authority could be fully and equitably represented at AST level. It would also ensure the effective local delivery of panel support.

The Children's Panel

A single national Children's Panel has been established for Scotland to help ensure that processes and systems are operated to a consistently high standard in every children's hearing in Scotland, while allowing for local delivery of services.

A children's hearing is a lay tribunal of three panel members recruited from within the local community in which the hearing sits. It must not be wholly male or female and aims to have a balance of age and life experience. The hearing considers the circumstances which have led to a child being referred to it and makes decisions on how vulnerable children and young people can be supported. Decisions by children's hearings must be taken in the best interests of the child.

The Act provides for the National Convener to appoint panel members to a single national Children's Panel and to ensure that hearings continue to operate locally, comprising 3 members of the local community wherever that is practicable, and that they maintain a gender balance.

The Act provides for the appointment and re-appointment of panel members to be carried out by the National Convener for a period of three years. The National Convener will re-appoint members to the national panel, on the basis of them having met conditions of re-appointment set out by the National Convener. This will achieve nationwide consistency in expectations of panel members in view of the major role they play in supporting vulnerable children and young people.

The power to remove panel members is vested in the National Convener subject to the consent of the Lord President, and is restricted to conduct and capability grounds, including failure to comply with training requirements.

The Act transferred responsibility for the payment of panel members' expenses from Scottish Ministers and local authorities to the National Convener. Expense rates previously varied across the country. The National Convener put in place a single national scheme which will ensure standardised amounts and ensure timely payments.

There are about 2,500 panel members throughout Scotland. There is no statutory maximum period of service. The AST has an important role to play in seeking a balance between the need to maintain a core of experience in any panel and the need to bring in new members.

Being a children's panel member is an unpaid appointment, but panel members do receive allowances for travel expenses and subsistence from CHS. Panel members are entitled to take time off work for panel duties and are excused from jury service during their period of service and for a period after their panel membership ends. Loss of earnings are paid, where appropriate.

Appointment as a panel member is conditional on satisfactory completion of the pre-service (Induction 1) training programme. Panel members must also complete the course of new member training (Induction 2 and 3) which includes specialist training for chairing hearings.

In-service training continues throughout membership of the panel.

The Children's Panel members will be reinforced in their status as members of a tribunal, and they will be consistently prepared and supported to take independent decisions in the best interests of each child.

Value requirements

Because of the responsibilities that panel members carry and the influence and impact that they can have on the lives of vulnerable people, they must also meet particular value requirements. As well as being skilled and knowledgeable they must treat people with respect and be honest, open and reliable. They must also be self aware and critically reflective.

Competences

The following standards apply to panel members completing pre-service training. Before beginning to serve on children's hearings they should be able to meet the following competences:

- have an appropriate level of knowledge of the law, procedure and best practice in children's hearings
- ensure and promote equal treatment for all involved in children's hearings
- ensure effective and purposeful communication at a children's hearing
- ensure a fair and effective hearing
- ensure that all the relevant issues are addressed by obtaining and managing information
- ensure a proper assessment of the child's needs, identification of relevant resources, effective deliberation and reasoned decisions for future care of child
- ensure that children's hearings are compliant with the European Convention on Human Rights, the United Nations Convention on the Rights of the Child and any other relevant legislation

The following additional competences apply to panel members completing chairing training.

Before beginning to chair children's hearings they should be able to:

- possess sufficient knowledge and understanding of the legislation and best practice relevant to children's hearings
- communicate effectively and purposefully
- manage the hearing in a manner that enables participation by all those present
- manage the hearing effectively

- conduct the hearing to encompass all relevant issues
- involve all members in deliberations and decision making

More detail is in “Revised Competence Framework for chairing members and members of Children’s Hearings”.

Local Government

Local authorities’ role will be to achieve productive and professional partnership working between the Children’s Panel and local authorities and maintain the link between panel members and the communities in which they live and work. There will be continued involvement of local authorities in children’s panel support. While responsibility for maintaining and managing the Children’s Panel moved to the National Convener and Children’s Hearings Scotland, it places responsibilities on local authorities for supporting the work of hearings, implementing and funding decisions made by them and for providing practical local support to panel members through involvement with area support teams.

The National Convener may require local authorities to report on their response to decisions made by children’s hearings, and that the National Convener should convey this information to panel members. At present, panel members rarely know what happens after they make a compulsory supervision order. Having this information will allow them to better understand what types of supervision have proved effective and which in turn could help inform future decision-making and thus achieve better outcomes for children. This feedback loop will also allow the National Convener to identify areas of good practice around the country which can be shared more widely.

The Act contemplates ongoing close interaction between the National Convener and local authorities and for local authorities to continue to provide local support for the children’s hearings system such as office space, clerical support and advice etc.

Safeguarders

Section 32 of the Children's Hearings (Scotland) Act 2011 provided that Scottish Ministers must establish and maintain a panel of persons (to be known as the Safeguarders Panel) from which any appointment of a safeguarder is made. It also provided that Scottish Ministers may enter into arrangements (contractual or otherwise) to comply with the requirements to maintain and establish the panel.

The Children's Hearings Team worked with procurement colleagues on the specification of the contract to manage and operate the National Safeguarders Panel. The contract was signed in March 2012 with Children 1st who were contracted to assist Scottish Ministers with the management and operation of the National Safeguarders panel from 1 April 2012.

The role for Children 1st will include recruitment and selection, training, managing appointments, complaints and monitoring performance

A new set of regulations known as the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 (SSI 2012 No. 54) came into force from 26 March 2012 and these form the legislative framework that Children 1st will operate.

They replaced The Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001 (made under the Children (Scotland) Act 1995 Act) which were repealed.

Safeguarders are independent of all agencies and are selected from various backgrounds - lawyers, social workers and ex-panel members or people who have had some experience of working with children in other capacities. The role of the safeguarder is to prepare a report to assist a children's hearing or court in reaching a decision in a child's best interests. The safeguarder has a 35 day time period in which to produce the report requested. If they are unable to provide a full report to the children's hearing within this timescale, they must as a minimum provide an interim report stating why they were unable to provide a full report, what other matters still require to be investigated and how long they will need to do this.

A hearing or a court may appoint a safeguarder if satisfied that it is necessary to safeguard the interests of the child in the proceedings. The safeguarder must produce an independent written report for the hearing. He or she may interview the child, members of the family and any other person who may provide information. In addition, a safeguarder may have access to records held by professionals. The contents of a safeguarder's report are not defined in law but there is an expectation that it will reflect interviews with the child, family and any other significant people; put forward the views of the child, identify relevant issues and make a recommendation based on the best interests of the child. If appointed by a court a safeguarder may become a party to the proceedings.

Safeguarders are expected to attend hearings, not to speak for the child, although they may present the child's views, but to represent his or her best interests. This may sometimes mean making a recommendation to the hearing with which the child does not agree. Once the hearing has made its final disposal, and the appeal period is over, the safeguarder has no further contact with the child.

Safeguarders have the right to:

- receive copies of the papers which were considered by the hearing which made the appointment and any subsequent hearings during the period of appointment
- receive copies of the reasons for the decision to appoint a safeguarder
- be present at all stages of the hearing
- be informed of the decision and reasons of the final hearing and to be given a copy of those reasons in writing.
- appeal against the decision of the hearing on behalf of the child, or at the child's request, (but not if older child likes the decision and the safeguarder does not)
- have their views considered in advice and warrant hearings.
- appeal in their own right against the decision of the hearing

Legal Assistance for a Child and Relevant Person(s)

Legal representatives are replaced in the 2011 Act by Legal Assistance (the child and relevant person's solicitor).

The hearing will not appoint but will give advice to the child and relevant person to contact a solicitor and will write in their decision and reasons that such advice had been given.

The Scottish Legal Aid Board (SLAB) will provide best practice and a code of practice. "Children's Legal Assistance" will be made available automatically in the following circumstances:

- Proceedings before a sheriff for variation or termination of a child protection order
- The hearing following the making of a child protection order (2nd working day)
- Hearings at which secure accommodation is to be discussed
- Hearings held because child apprehended by police.

For other children's hearings legal assistance for the child and relevant persons may be available, as it may be in proceedings before a sheriff and in appeals. Eligibility for children's legal assistance for the child or legal assistance for relevant persons in these circumstances will be determined by SLAB.

The tests for eligibility are reasonableness in the circumstances; avoiding undue hardship; and best interests of the child.

ABWOR (Assistance by way of representation) is available for all hearings (subject to firms being registered with SLAB as eligible to provide children's legal assistance and SLAB Code of Practice)

3 THE PROFESSIONALS WHO SERVE THE SYSTEM

Children's Reporter

The children's reporter is an officer of the Scottish Children's Reporter Administration (SCRA), a national body with a statutory function to deal with children in need of care and protection and children who commit offences. The reporter is independent from all other agencies and has absolute discretion in decision making. The Principal Reporter, as professional head of SCRA, carries overall responsibility for reporters' decision-making. The management of the service is overseen by a board whose members are appointed by Scottish Ministers. The SCRA has its headquarters in Stirling. Senior Operational Managers have responsibility for geographical areas of the country. Working under them in nine localities are teams of locality reporter managers, reporters, assistant reporters and support staff as required.

The nine localities are: Highlands & Islands, North Strathclyde, Glasgow, Grampian, South East Scotland, Tayside & Fife, Ayrshire, Central and Lanarkshire/Dumfries & Galloway.

No specific qualifications are set out in law for the job but in practice, most reporters have qualifications and experience in either law or social work. They also need a working knowledge of the law relating to the children's hearings system and an understanding of child development and welfare.

Referrals

Reporters have several duties laid down by law. They receive information from any source "referrals" about children

- (a) who the referrer considers are in need of guidance, treatment, control or protection, and
- (b) in respect of whom it might be necessary for a compulsory supervision order (CSO) to be made (legal intervention in their lives).

Although most referrals are received from the police, social work departments and schools, they are also received from parents, neighbours and children themselves. All are given the same level of consideration.

Investigation and Decision-making by the Reporter

When information is received by the reporter, s/he must determine:

- (a) whether a “section 67 ground” applies in relation to the child. The “section 67 grounds” are set out in law: they are categories of reasons why a child may be on need of a CSO (for further details see Law and Procedure); and
- (b) if so, whether the reporter considers that it is necessary for a CSO to be made in respect of the child.

In order to make a decision, the reporter may make any further investigation relating to the child s/he thinks necessary. The extent and type of investigation is for the reporter to decide. This may involve obtaining reports from a child’s school, social work services and, if necessary, other agencies who may have knowledge of the child or the child’s family such as doctors, psychologists, health visitors etc.

The investigation normally takes five or six weeks but can take longer in certain circumstances. Reporters welcome the assistance of children and parents in this process.

The level of reporter’s investigation will depend on several factors, including the extent of concern about the child, and the effectiveness of voluntary cooperation both currently and in the past. For the purposes of the reporter’s investigation, there are three categories of report, namely IER (Initial Enquiry Report), IAR (Initial Assessment Report) and SBR (Social Background Report), in increasing level of depth of assessment. Where there are a number of agencies involved in relation to a child in need, the GIRFEC approach is underpinning a move towards the Integrated Assessment Framework (IAF) incorporating the Child’s Plan. The Child’s Plan is for any child or young person where there is a concern or where assessments show that the child may need additional supports so that positive outcomes can be achieved.

The Reporter's Decision

The reporter is required to make one of three decisions:

- not to proceed further with the referral
- to refer the child and family to the local authority to make arrangements for advice, guidance and assistance on a voluntary basis
- to refer a child to a children's hearing for the purpose of deciding whether a CSO to be made for that child.

Hearings

At a hearing the reporter will keep notes a record of the hearing's decision, complete relevant forms and will support fair process. The reporter will carry out the fair process duty by expressing to the hearing a view and reasons for that view both on procedural and human rights issues, if and when these arise. However, the reporter in carrying out his/her role will seek to maintain the independence and impartiality of the children's hearing.

After the hearing is over the reporter will inform all relevant agencies of the decision of the hearing and provide a copy of the decision and reasons for it to the child and relevant persons. Children and relevant persons have a right to appeal against the decision of the hearing.

If the reporter arranges a hearing and if s/he does not already have a report from the local authority, or the reporter wishes additional information s/he will, at that point, request a report from the local authority. The report for the hearing will be an in-depth assessment, underpinned by the principles set out in the IAF, and incorporating a Child's Plan.

Panel members and relevant persons must receive this report along with any section 67 grounds and any safeguarder's report at least three days in advance of the hearing. All children receive section 67 grounds and children over 12 will normally receive copies of reports and children under 12 may receive them, subject to certain safeguards.

The Reporter in Court

The reporter may attend court for two reasons:

1. When the section 67 grounds are denied or not understood and the hearing directs the reporter to make an application for proof, the reporter has to conduct the case in the sheriff court by presenting evidence and calling witnesses.
2. If the child and/or relevant person appeal against the decision of the hearing, the reporter's role is to assist the court to reach a well-informed decision in the child's interest and also to promote the children's hearing as the appropriate decision-making forum.

The Police

If the police arrest a child under 16 for any reason and believe the case needs further consideration, they will refer that child to the reporter. If the police receive notification of a child who has been abused or may need protection from harm, they may remove a child temporarily to a place of safety. This is normally done in co-operation with the local authority, which will then refer the child to the reporter to arrange a children's hearing.

If the police decide to refer a child to the reporter, they must provide the legal evidence which will uphold the section 67 grounds. They will also provide a brief report in the form of a Child Concern Form which includes information about the child's family background.

Each police force, through its Juvenile Liaison Officers in conjunction with multi-agency Community Safety Units, deals with issues relating to young people who offend. Their aim is the prevention of offending by intervention and diversion at an early stage.

Young people involved in offending or whose personal safety is at risk are likely to come first to the attention of a uniformed police officer on the beat e.g. young people wandering late at night, experimenting with drugs or alcohol, and mixing with known

trouble makers. Where no criminal offence has occurred, the officer notifies the Juvenile Liaison Officer by means of a referral after giving the young person an informal warning in the presence of their parent or guardian. If more action is required, a community police officer may be tasked to make contact with the young person and the family to give advice about where the family might go for help. Where a criminal offence has taken place and the child is aged 8 years or over, the police are bound to formally charge the young person in the presence of their parent or guardian, and the circumstances are reported to the Juvenile Liaison Officer for consideration.

Police Warning

A child may be eligible for a formal police warning where:

- the crime or offence is not serious enough to warrant referral to the Procurator Fiscal
- referral to the reporter is likely to result in a 'no further action' decision
- the child has not been formally warned on more than one occasion
- the crime or offence is admitted and the child and parents agree to co-operate.

The children's reporter may also refer a child for a police warning.

Although formal police warnings can be carried out by a uniformed officer of Inspector rank or above, they are now more commonly performed by community police officers who have been specially trained in restorative justice. Restorative justice warnings are only conducted where the child has admitted the crime or offence, although it is not essential that the child should have expressed regret or remorse for their actions. The aim of the warning is to cause the young person to realise the harm their actions have caused and the impact their behaviour has had on the victim. Sometimes victims can request to be present at these warnings so that they may express their feelings on the crime or offence directly to the young person. If responsibility for the crime or offence is denied or disputed, the report is usually forwarded to the reporter for any action he or she may care to take.

Child Protection

In recognition of the need for close co-operation in cases of physical and sexual abuse or severe neglect where a crime may have been committed against a child, a joint investigation is carried out by police and social work staff. Some areas have special child protection units which are jointly staffed by police and social workers, but all areas have police officers who work particularly in the fields of domestic violence and child and vulnerable adult protection. Police officers involved in this work are typically detectives and do not wear uniforms.

Procurator Fiscal

The procurator fiscal is a legal officer who performs the functions of public prosecutor.

The Crown Office and Procurator Fiscal Service (COPFS) is responsible for the prosecution of crime in Scotland, the investigation of sudden or suspicious deaths and complaints against the police.

Authority To Prosecute And Policy

The general rule for prosecutors is that criminal proceedings should not be taken against a child under 16 unless there are compelling reasons in the public interest for doing so.

The presumption is in favour of such cases being dealt with by the reporter in terms of the Children's Hearings (Scotland) Act 2011. The Criminal Justice and Licensing (Scotland) Act 2010, section 52 raised the age of criminal prosecution from 8 to 12 in Scotland.

However, the net result of the legislation means that children can continue to be charged with an offence from the age of 8, but that until they become 12 they can only be dealt with through the children's hearings system regardless of age.

Section 80 of the Criminal Justice Act 2010 allows the retention of DNA for children who have had offence ground accepted or established at a children's hearing where the offence fits within a list prescribed by regulation. That list refers mainly to serious sexual or violent offending and is likely to impact upon a very small number of children.

Details are given in the Legislation and Procedure section of Volume 1 of the Training Resource Manual.

Under section 187 and 188 of the Children's Hearings (Scotland) Act 2011, appearances at children's hearings for offending will be classified as an alternative to prosecution and such offending will not be retained within the criminal history for any lengthy period of time unless it falls within a list of prescribed offences.

Details are given in Volume 1 - Legislation and Procedure of this Training Resource Manual.

Courts

It is important to remember that one of the prime aims of the children's hearings system is to remove children from the formality of the court setting. The separation of proof from disposal allows the hearing to concentrate upon deciding on appropriate measures to promote the welfare of the child. However the children's hearings system is part of Scotland's justice system and there is an inter-relationship between the children's hearings system and the courts at various times and for a number of different purposes.

All criminal prosecution in Scotland is the responsibility of the Lord Advocate, through the Crown Office in Edinburgh. The Lord Advocate is normally represented in the High Court of Justiciary by the Solicitor General (his or her depute) and by the advocates depute, advocates who join the Crown Office for a period of time. The senior advocate-depute is known as the Home Depute. In the Sheriff Court, prosecutions are brought by procurators fiscal, acting on behalf of the Lord Advocate.

Scottish Courts operate at three levels:

The District Court

This court has only criminal jurisdiction and deals with relatively minor offences such as minor assault, breach of the peace and petty theft, including shop lifting. It also deals with minor road traffic offences. The case is presented by the procurator fiscal and heard by a lay justice of the peace, with a legally qualified clerk in attendance. The district court does not have jurisdiction over children under the age of sixteen.

If a sheriff is not available to consider an application for a child protection order, a justice of the peace (who is authorised to sign warrants) may, if satisfied that the conditions for making a child protection order exist, authorise a temporary warrant to hold a child for twenty-four hours in a place of safety until the matter can be brought before a sheriff.

The Sheriff Court

Sheriff courts are presided over by legally qualified sheriffs who exercise both criminal and civil jurisdiction. Sheriffs have been either advocates or solicitors and each of the six sheriffdoms is presided over by a sheriff principal.

(A) Civil Jurisdiction

The majority of civil actions are raised in the sheriff court. Most divorce cases are heard in the sheriff court and undefended actions may be dealt with on affidavit evidence without personal attendance. Where there are children of the marriage sheriffs will decide on issues relating to residence and contact. A sheriff, in considering cases relating to separation, divorce, parental responsibilities and rights and permanence orders with authority for adoption or adoption, or the securing of a child's attendance at school, can refer the child or children to the reporter if he or she thinks the child may require compulsory supervision. The reporter investigates in the normal way but the grounds will be deemed to have been established if the reporter takes the case to a hearing.

Referrals from children's hearings to the sheriff are civil proceedings although it is recognised by the courts that they fall into a special category of their own. Cases are heard in private and many sheriffs do not wear formal court dress and may sit at a table in the well of the court, or in chambers, with the child and others who are present.

If section 67 grounds are referred to the sheriff court for proof the case must be started within 28 days of the application. In an offence case, the grounds must be proved beyond reasonable doubt. In all other cases a different standard of proof (on the balance of probabilities) applies. The family are entitled to legal assistance if they wish and they may be eligible for legal aid.

If a child, relevant person or safeguarder appeal to the sheriff against a decision of the hearing the appeal must be lodged initially in writing to the sheriff clerk within 21 days of the decision being made and the reporter then has to provide all the appropriate papers to the sheriff. The appeal is heard in private and again the family is entitled to legal assistance and may be eligible for legal aid.

The law allows various legal actions to be taken by the sheriff to protect children. These include child protection orders, child assessment orders and exclusion orders. (For more information see Legislation and Procedure.)

There is a right of appeal from the sheriff's decision on a point of law to the sheriff principal or to the Court of Session. The sheriff may appoint a curator ad litem or a safeguarder to look after the child's interests and parents and children may apply for legal assistance.

(B) Criminal Jurisdiction

Most of the less serious cases of crime are dealt with in the sheriff court. Where the sheriff deals with a case on his own, summary procedure is followed. Under solemn procedure the sheriff sits with a fifteen person jury and has much wider powers of sentence.

Only the procurator fiscal can decide if a trial will proceed on summary or solemn procedure. In the majority of cases when a young person appears in the sheriff court he or she will be dealt with by summary procedure. In certain circumstances the sheriff may, or must, refer the cases to hearings for advice. (See Legislation and Procedure)

Sheriffs may deal with criminal cases where children are alleged to have been harmed or abused by someone. Although section 67 grounds may have been established on the standard of the balance of probability, the sheriff must apply the criminal standard of beyond reasonable doubt in dealing with the alleged abuser; in terms of Scots Law this requires corroborative evidence and hearsay evidence is not admissible. For this reason there are comparatively few successful prosecutions but the child can still be protected by the children's hearings system.

The High Court of Justiciary / Court of Session

(a) Civil Jurisdiction

The Court of Session exercises civil jurisdiction as a court of first instance and also as an appeal court. It hears appeals of decisions by a single judge of the Court of Session or by a sheriff. As an appeal court, a minimum of three judges sit together. Although appeals to the House of Lords may be allowed, this does not apply to appeals from children's hearings. The Court sits in Edinburgh. Although most cases relate to matters like contract, debts, damages and property matters, the judges may also consider matters relating to divorce or aliment.

Appeals relating to children's hearings are taken against a sheriff's decision - or conduct of the case.

(b) Criminal Jurisdiction

The High Court of Justiciary is the supreme criminal court in Scotland. There is no appeal in criminal cases to the House of Lords. The Court sits in Edinburgh and other towns or cities in Scotland when it goes on circuit; there is a permanent circuit sitting in Glasgow. As in solemn procedure a judge sits with a fifteen person jury. Appeals which may arise out of the district court, sheriff court or High Court are

normally held by a bench of three judges sitting as the Court of Criminal Appeal. All appeal cases are heard in Edinburgh. There is no jury in appeals.

The High Court deals with the most serious crimes. It has exclusive jurisdiction for murder, treason, incest and rape and also deals with other cases which, in the opinion of the Lord Advocate, may merit a sentence of more than three years imprisonment which is the maximum penalty of the sheriff court.

When children are prosecuted in the High Court, the Court may, but need not, refer the case to a children's hearing for advice or remit it to a hearing for disposal following a plea or finding of guilt. The only exception is murder which has a mandatory sentence of detention.

Social Workers

Although the responsibility for implementing compulsory supervision is the duty of the local authority, the main responsibility normally rests with social work services. Social workers provide a link within the system between referral and disposal and between the child, the hearing and the community in general. They have a statutory duty to provide reports for hearings and to implement compulsory supervision orders. Often this function is difficult to carry out in practice: for instance, in writing reports social workers may experience some degree of conflict between providing the best information for the panel members while still continuing to maintain the trust of the child and the rest of the family. They are also able to refer children to the reporter and call for a review of the compulsory supervision order.

Preparation of a Background Report for the Hearing

An important task is the preparation of a social background report. When a reporter decides to refer a child to a hearing the local authority is asked to provide a report and is legally obliged to do so. A social worker will meet with the child and family and other significant people as required, in order to gather information. The report is the main source of information for panel members and contains details about the child's background and difficulties. The social worker who provided the report generally

attends the hearing along with the child and family. If something prevents him or her from doing so then another social worker will be in attendance.

The content of a social background report should follow the guidelines issued by SCRA described earlier under the children's reporter section. Information and views need to be put together from all those who are involved with the child and also include the child's view. Where the child and family are already receiving support from the social work service, an assessment will be required of how far that support is being effective and what changes to the level and type of support appear to be needed.

Further Information

Sometimes hearings are continued for further information because panel members do not consider that the assessment provided by the social worker is full enough to enable them to make their decision regarding the future care of the child. This assessment is usually carried out with the child remaining at home. Whatever method of assessment is used, the objective will be to obtain a fuller understanding of the child and his or her circumstances, to identify the factors that may be amenable to change and to indicate possible methods of achieving such change.

When panel members have continued the hearing for further information it may be that the child appears to have such major difficulties in home and school that a placement outwith the home may be required as may assessment in a residential setting.

Child's Plan

A multi-agency Child's Plan is required when a child needs support from two or more agencies and a significant level of intervention and co-ordination of effort is required. It will be initiated when a child requires enhanced or specialist support.

If a child requires extended support it will be matter of judgement between the professionals involved at a multi-agency meeting if a child's plan is required and a lead professional agreed. Normally any child receiving universal or additional

support would not be the subject of a Child's Plan and therefore there would be no need for a Lead Professional.

Education Staff

The education service of the local authority, after exhausting their own school based solutions, including referral to their Area Attendance Group, may make referrals to the reporter, particularly in cases of children failing to attend school. If a child who is to appear at a hearing is of school age, then the reporter usually asks for a school report, providing a form for this purpose. This contains information on the educational performance and behaviour of the child in school and a record of attendance. Sometimes a representative from the school will attend the hearing but there is no obligation for them to do so. As part of a compulsory supervision order a hearing may attach a condition that the child receives a particular education service that the authority has to offer.

In some areas additional services provided by education departments include school based social workers and educational welfare officers.

School Reports

In secondary schools the person with special responsibility for preparing a report for a hearing is the child's guidance or pupil/student support teacher who will collect the material from other members of staff. In primary schools, reports are usually completed by the head teacher in consultation with the class teacher.

Further information on the Scottish schools curriculum "Curriculum for Excellence" and "additional support needs" can be found in the "Child, Family and Society" section of this volume of the Training Resource Manual.

Educational Psychologist

The education services of the local authority have a responsibility to provide a school psychological service. Their work covers everything to do with children, their

development, and progress and educational career. They also have a statutory duty with regard to “additional support needs” children in the assessment of their educational needs to allow the child to get the best out of the system and to attain their full potential.

Educational psychologists work with children, their families and teachers where a child is displaying behavioural problems which cannot be easily managed in the school, or where the child has a learning difficulty. Educational psychologists may provide reports and make recommendations to the hearing. They also provide support and advice to school staff in their work with children. They will see a child individually with parental agreement. In some areas, rather than working directly with the schools, psychologists provide a consultancy service to schools within the local authority area.

Medical Staff

In cases of child abuse or neglect, general practitioners and consultants will provide reports to the reporter to support the section 67 grounds and sometimes will also provide reports to the hearing. They can appear as witnesses in court should the section 67 grounds go to the sheriff for proof. The health visitor too may have valuable information to offer and may in certain circumstances attend a hearing.

Psychiatrists are medically qualified doctors who specialise in mental illness or mental disability. Clinical psychologists are part of the mental health team. They are problem solvers who use their skills to help individuals or families with problems such as phobias, anxieties, depression, learning difficulties, conduct disorders and neurological disorders.

As part of an assessment, a hearing may request that a child be seen by a medical practitioner, specialist paediatric consultant, a clinical psychologist, or in certain cases by a psychiatrist. In exceptional circumstances assessment might involve a period of time in a psychiatric establishment run by the health service. If necessary, a health service resource may be required as part of a compulsory supervision order.

Child Adolescence Mental Health Service (CAMHS)

CAMHS provides psychological, medical and psychosocial assessment and treatment for young people with mental health problems. CAMHS aims to promote optimal health and prevent relapse by offering a range of individual, family, systemic and group approaches. CAMHS teams also offer professional consultation services.

4 RESPONSIBILITIES TO CHILDREN AND THEIR FAMILIES

DUTIES OF THE LOCAL AUTHORITY

Every local authority must protect and promote the welfare of children in need in its area. To do this it must work with children and their parents to provide support services that will enable children to be brought up within their own families, as far as this is possible.

Who are “children in need”

Children in need are defined in law as children who are aged under 18 and:

- need local authority services to achieve or maintain a reasonable standard of health or development, or
- need local authority services to prevent harm to their health or development, or
- are disabled, or
- are affected by the disability of another family member.

Children with disabilities or affected by disability

A child is considered to have a disability if s/he has a mental or physical disability or a chronic health problem.

A child may be affected by the disability of another family member if one of her/his parents has a disability or a brother or sister has a disability.

If a child has a disability, or is affected by the disability of another family member, the local authority must provide an assessment of the child, if the parents ask for one. The local authority must also provide an assessment of the child’s carer and her/his ability to provide care for the child.

When a local authority provides services to a child with a disability or to a child who is affected by the disability of another family member, it should aim to help the child to live as normal a life as possible

Children Who Are Looked After By The Local Authority

There are a number of reasons why a child may be 'looked after' by the local authority. Most often it is because the child's parents or the people who have parental responsibilities and rights to look after the child are unable to care for him/her, have been neglecting him/her or the child has committed an offence. The local authority has specific responsibilities and duties towards a child who is being looked after or who has been looked after.

The child may be:

- in local authority accommodation under a voluntary arrangement, where the child's parents agree to the child being accommodated or
- in local authority accommodation or at home, on a compulsory supervision order decided by a children's hearing or a court.

Children's Hearings and Court Orders

A child can be subject to an order from a children's hearing and an order from the sheriff court at the same time.

Children's Hearing

A children's hearing is a formal meeting of three children's panel members normally from the local area, a children's reporter, and normally a social worker, who has visited the family and prepared a report. It is called to consider a child's case and whether or not the child is 'at risk' and requires to be supervised and/or protected. A children's hearing may be called after a child has been removed from home to a safe place in an emergency. The types of situations that may mean the children's reporter calls a hearing are when "a section 67 ground" of the Children's Hearings (Scotland) Act 2011 applies.

A child can only be called to a children's hearing if s/he is under 16 or under 18 and already subject to an order from a children's hearing. In all cases if the child is old enough, s/he must be given the opportunity to put forward his/her view of the situation.

Legal assistance may be available for a child at a children's hearing when it is likely that the child will be placed away from home or if the case is unusually complex.

Legal assistance may also be available for a parent at a children's hearing where certain directions are part of a compulsory supervision order are likely to be made, for example, requiring that the child is to live in secure accommodation, and where the child or a relevant person is unlikely to be able to participate effectively.

When the hearing has discussed the details of the child's situation, it can either discharge the case or make an order called a 'compulsory supervision order'. In some cases, the CSO will have a direction attached to it that the child must live away from home, either with foster parents, in a children's home or at a special residence where the hearing believes the child will receive the right help or supervision.

A CSO lasts for one year unless the hearing decides it should be reviewed earlier than this. At any time three months after the order begins a relevant person or a child can ask for the children's hearing to review the compulsory supervision order. A social worker can ask for a review at any time.

Relevant persons or a child who is old enough, or the child's safeguarder can appeal against any decision made by a children's hearing. This must be done within 21 days of the decision being made and the appeal is made to the sheriff court. Legal assistance may be available for an appeal.

Court Orders

The sheriff court can make a number of orders for the protection and supervision of children. The main orders that can be made are:-

- a child protection order - an application may be made by any person who is concerned for a child, or by the local authority. The order may state that the child should be removed to a safe place or that the child cannot be removed from the place where s/he is staying. A child protection order lasts for 8 days but must be reviewed within that period either by the court or a children's hearing.

- a child assessment order - an application can only be made by the local authority. It lasts for a maximum of three days. It may not involve the child being away from home but will mean that the child has to be taken to a particular place to be assessed.
- an exclusion order - can only be applied for by the local authority. It can last for six months and may mean that a person who is suspected of abusing a child has to leave or stay away from the child and his/her home.
- a permanence order - can only be applied for by the local authority. It can last until a child reaches the age of 18. It transfers the parental right to have the child living with the parent and to control where the child lives to the local authority. Other parental responsibilities and rights can be shared between the local authority, the birth parents and the carers of the child, for example, foster carers or kinship carers.
- a parenting order – can be applied for by the local authority or by the children’s reporter. It can last for up to twelve months and requires the parent(s) to undertake guidance and counselling and other activities as directed by the court to improve their parenting skills. Breach of a parenting order is a criminal offence.

Rights When A Child Is Being Looked After

The Child’s Rights

If a child is being looked after by the local authority they have a right to be consulted about what is happening to them. This does not mean that they will always get what they want, but that their views must be taken seriously.

Some local authorities may appoint children’s officers who are responsible for helping children to understand what is happening to them. Voluntary organisations may also be able to provide advice or representation direct to children.

In formal legal procedures, such as children’s hearings and courts, the child has the right to be represented independently.

Relevant Persons' Rights

The rights of the parent or relevant person of a child who is being looked after by the local authority will depend on how the child came to be looked after.

If the child is being accommodated by the local authority under voluntary measures, a parent will retain full parental rights.

If the child is subject to a compulsory supervision order or an order of the court, a parent will retain full parental rights, although these may be limited by the children's hearing or the court.

If the local authority has a permanence order for the child, the parents do not have the parental right to have the child living with them or to control where the child lives. The permanence order will set out whether they still have any other parental responsibilities or rights or whether these have been given to the local authority or the carer of the child, for example, a foster carer.

The Care Plan

Every child who is being looked after by the local authority must have a care plan. The child, the parents and the prospective carers (if the child will be living away from home) should be involved in producing the care plan.

The care plan should include information about:-

- any services to be provided for the child, including any special arrangements to meet any religious, linguistic, racial or cultural needs and
- care, education and health needs and
- the local authority's responsibilities and
- the child's responsibilities and
- the parents' responsibilities and
- details of where the child will be living, and who is responsible for the accommodation and
- the contribution that the parents will make to the child's day-to-day care and
- the arrangements for involving the parents in decision making and
- the arrangements for contact between the child and their parents and

- how long the arrangement is likely to last and details of how the arrangement will come to an end and
- plans for how the child will be helped to return to their parents or other arrangements that may be made for you at the end of the placement.

The care plan should be clear and easy to understand and the local authority should ensure that everyone affected by it understands what it means. The child and their parents should be given copies of the plan.

Challenging decisions

If a parent or a child is unhappy with some aspect of the way in which they or their child is being looked after they should consult an experienced adviser for example, at a Citizens Advice Bureau.

Where the child lives

If they are unhappy with any aspect of the accommodation provided for the child or as a parent, they should consult an experienced adviser for example, again at a Citizens Advice Bureau.

TYPES OF ACCOMMODATION

Staying with their parents

Although the child is being looked after by the local authority they might remain at home with their parents under a compulsory supervision order. The local authority has to visit regularly to ensure that the terms of the compulsory supervision order are being met.

Kinship care

When the child is being looked after by the local authority they may stay with close relatives or close friends until their parents are able to care for them. This is known as kinship care.

What is kinship care?

Kinship Care for a looked after child is defined under the Looked After Children (Scotland) Regulations 2009 as, "*a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing relationship*"

How does kinship care come to the attention of children's hearings?

There is a broad spectrum of need and reason for referral. Some children will already be placed or living in informal kinship arrangements. Being Looked After in kinship care is not in itself a reason for referral to the reporter.

What forms of kinship care may come to the attention of the children's hearings?

Both formal and informal arrangements may be referred. Shared care is also a possibility.

What information might be expected by hearings in relation to kinship care?

The local authority assessment of kinship care may include information which they do not have a right or permission to share with parents in a hearing, and therefore when kinship reports are submitted to a hearing it is possible that some information has had to be withheld. However, panel members could reasonably expect a report which indicates how assessment of a proposed kinship placement has been progressed or is being progressed in line with the Looked after Children (Scotland) Regulations 2009.

If a hearing makes an order placing a child with a kinship carer, should the local authority approve the placement first?

Preferably, yes. Any placement that has gone on for longer than 12 weeks should have been assessed and approved by the local authority. The hearing can make the order naming place of residence with a kinship carer, but the local authority must still go on and ensure by assessment and approval processes that the placement can meet the child's needs.

When may kinship carers attend hearings?

The normal rules and discretion apply as regards recognition by the hearing of carers as Relevant Persons. There may be circumstances in which kinship carers who are not relatives may be invited/permitted to attend alongside parents.

Fostering

Fostering means that the local authority arranges for the child to live with foster carers in their own home. It enables the child to be cared for in a family environment. The fostering may be for a brief period, for example when their parents are temporarily unable to look after them because of illness in the family. The intention will be that the child returns to their parents as soon as possible. If it is not going to be possible for the child to return to their parents the child may remain with foster carers for a longer period.

Foster carers are recruited and selected by the social work authority. Relatives and friends of children can be used as foster carers but they will also have to be assessed and approved by the local authority.

Children's homes

Children's homes can either be administered by local authorities or by private or voluntary organisations such as Barnardo's. They are run by paid staff. In general, children placed in children's homes tend to be older. If the child is under 12 they will be placed wherever possible in foster homes.

Residential schools

The child might be placed in a residential school for a variety of reasons such as a problem of persistent truanting or difficult behaviour in school or criminal offences. These homes tend to be larger than children's homes and provide a more structured and disciplined environment, similar to that of a boarding school.

CONTACT BETWEEN THE CHILD AND HER/HIS FAMILY

What Is Contact?

When the child is living away from home the local authority has a duty to promote contact between the child and their parents and other members of the family, so long as this is consistent with the child's welfare. Parents also have a responsibility to

Voluntary Arrangements

If the child is accommodated under voluntary arrangements, all the people involved should try to agree the terms of contact. The local authority cannot stop contact between the child and their parents. If the local authority is concerned that contact should be restricted or stopped it must refer the case to the children's hearing for consideration, or apply to court.

Compulsory Supervision Order

If the child is being looked after away from home under compulsory supervision order, arrangements for contact may have been made by the children's hearing or court. If arrangements for contact have not been made by the children's hearing or the court, the arrangements will have to be agreed with the local authority.

Disputes About Contact

Any arrangements for contact should only be changed, stopped, increased or restricted after they have been considered at a regular review meeting, unless the local authority considers that there is an emergency.

If, after a review, a local authority considers that arrangements for contact should be changed for whatever reason, it must refer the matter to the children's hearing or court for consideration.

If the child or their parents are unhappy with the decision of the children's hearing or court, they can appeal.

Practical Problems With Contact

Local authorities have a responsibility to encourage contact between the child and their parents. They have powers to help overcome difficulties with the practical arrangements, for example by making payments for travel expenses. A parent who needs practical help with keeping contact should ask her/his social worker for help.

Aftercare Services

Young people can leave care at 16 but, if it is in their best interests, should not have to leave before they are 18. There are special arrangements for young people leaving care. Most young people over school-leaving age are not entitled to benefits and instead are supported by the local authority. The local authority should plan from the beginning of the placement for what will happen when the young person stops being looked after.

A young person leaving care must be consulted about what will happen and should be given information and advice about making choices about their future. If the young person is not going to return to live with their parents the local authority should consider how the young person can plan for living independently, or in supported accommodation.

The local authority should draw up a Pathway Plan which draws up the support and guidance provision for the young person. This may include:

- advice and information
- assistance in cash or in kind
- help with the costs of education and training
- the local authority may be able to help find a place in supported accommodation.
- help in making or maintaining contact with their family.

To qualify for aftercare support, the child must still be “looked after” on the date they reach school leaving age – this is not exactly on their 16th birthday.

If 16 between 1 March and 30 September – school leaving date is 31 May of that year – therefore entitled if “looked after” on or after 31 May

If 16 between 1 October and the following 28 February – school leaving age is the first day of the Christmas holidays – therefore entitled if still “looked after” on or after the first day of the Christmas holidays.

Note: This means there is approximately 3 months when, by law, the child is **not automatically** entitled to aftercare support

Children’s hearings should therefore not terminate compulsory supervision too early as it might have the practical effect of denying the child aftercare services.

SUPERVISION

The Children’s Hearings (Scotland) Act 2011 specifies that a Compulsory Supervision Order may include measures taken for the protection, guidance, treatment or control of the child. The child’s circumstances established through assessment and discussion at the hearing will dictate whether all or some of these aspects will be the focus of the work with the child.

A local authority must give effect to a compulsory supervision order made by a hearing. This means that it is the whole authority that carries the responsibility and not just one department. Social work and education in effect are the two main services who will be involved but others may have some relevance, for example, housing and leisure and recreation. Housing is particularly relevant for young people of 16 and over who are in need of accommodation. The leisure and recreation service may be able to provide a diversionary provision.

The objectives of supervision whilst the child is living at home are to:

- provide effective measures of care for children living at home with their families
- enable children and their families to recognise and tackle successfully the difficulties and problems which led to the child being referred to a children’s hearing
- reduce offending behaviour where this is an issue
- provide protective measures for the child where this is an issue
- help ensure school attendance where this is an issue

- provide programmes of supervision which will maintain the confidence of panel members and the public in the effectiveness of supervision as a decision of a hearing
- provide programmes of supervision which aim to integrate the child in the community and maintain the confidence of the community.

Compulsory Supervision Orders (CSO)

In assessing the child's and the family's circumstances a social worker should consider whether the objectives can be achieved by voluntary provision of services rather than by a compulsory supervision order. The role of the hearing is to consider options in the light of discussions and to decide on whether or not to make a Compulsory Supervision Order.

A hearing must decide whether:

- the voluntary co-operation of the child and family with services offered by the social worker and other agencies is unlikely to be sufficient and that a compulsory supervision order would be better for the child than no order being made
- the child's needs can best be met at home or in another setting
- a direction relating to contact between the child and any other person should be attached to any compulsory supervision order
- there is significant risk by the child continuing to live at home.

Interim Compulsory Supervision Orders (ICSO)

If the section 67 ground hearing considers that the nature of the child's circumstances is such that for the guidance, treatment, control or protection of the child it is necessary as a matter of urgency that an interim compulsory supervision order be made, the hearing may make an interim compulsory supervision order in relation to the child which lasts for 22 days.

Further interim compulsory supervision orders may be made by the children's hearing for a continuous period up to 66 days maximum.

After 66 days any further extension/s or variations are required, the Principal Reporter must apply for that extension or variation to the sheriff for their determination.

What Is The Purpose Of Supervision?

The programme for supervision should be linked to the statement of reasons for the Hearing's decision so that the child, parents and social worker are clear about the basis for it. A plan should be drawn up by the social worker in conjunction with the child and family (together with other professionals where appropriate) and should set out:

- the purpose and specific issues to be addressed through supervision with the child and family
- the proposed methods by which the supervisor and others will approach these issues
- what the parents undertake to do
- what the child undertakes to do
- the timescale for the plan
- the process for reviewing progress.

How Is Supervision Carried Out?

Supervision objectives are achieved through the choice of the right techniques and services. A range of different approaches can be used in any supervision programme and it is the responsibility of the social worker to ensure that they are properly coordinated and effective in their delivery. Collaboration between agencies and within the authority is essential. It does not mean that the social worker will be the person who is undertaking all the work with the child and family. It may be that the majority of contact will be with another professional or service, e.g. educational psychologist and school, but the social worker will probably act as the co-ordinator.

METHODS OF SUPERVISION

The methods used in supervision may include:

- *Family based work* which may encompass family casework, family therapy, mediation and behavioural problems in support of the more effective functioning of all members of the family together.
- *One-to-one approaches* involving casework, counselling, problem-solving, personal learning (of skills and knowledge), and work aimed at behavioural change or attitudinal change where the emphasis is on the support and development of the individual.
- *Groupwork techniques* for children, parents or for whole families focusing on mutual support, problem solving, skills development. They can also be used for confidence building, project development or similar goals where the contribution of other people facing similar difficulties can be productive.
- *Resources in the community* for instance family centres, day care, befriending, specialist schooling, home care, community education, youth services, and voluntary groups.

The Role Of The Social Worker In Supervision

The role of the social worker in home supervision is to:

- maintain contact at the level agreed in the care plan
- undertake direct work with the child and ensure that the child's views are sought and listened to concerning intervention in his or her life
- work closely with the child's family, listen to their views and to ensure the child's needs are met and welfare ensured
- oversee the implementation of the care plan and ensure the focus of work is on achieving its objectives
- co-ordinate the work of other professionals with the child and family as agreed in the care plan
- ensure a review of the plan is undertaken to meet the statutory requirements.

Whatever the key issue may be in the compulsory supervision order (e.g. offending behaviour; child protection; failure to attend school) the role of the social worker is to focus on matters related to the key issues.

Children's Services Plans

To ensure that services are tailored to meet the particular needs of children in their area, each local authority is required, in consultation with health authorities and trusts, voluntary organisations, housing agencies, the reporter and a representative from the local Area Support Team, to prepare and publish plans for the provision and development of services for children. The authority also has a duty to publish information about the children's services which it makes available. Whilst the social work department will inevitably constitute a major part of the plan, contributions from other departments, particularly education but also housing and recreation and leisure will have an important part to play.

Social Work Services Resources

There is a range of resources available for children and families. Included here is some information about those generally provided. However, not every authority will have access to all and some will have others not mentioned here.

Child or Family Centres

Child or family centres encompass a very wide range of projects. Most have a specific focus on children in need, with some providing specialist services for children with disabilities. The age range will vary, although many cater for children below their teenage years and some take only children below school age. The aims are also varied, although they will usually include some of the following: encouraging improvements in the child's health and development; preventing abuse or alleviating the effects of abuse; improving parenting skills; and providing respite for parents. Some will offer an outreach service to families in their own homes.

Family Helpers

These are people employed by the social work service to give assistance to families. This may include help with the care of children, budgeting or home making skills.

Day Care

Day care covers various services for both pre-school and older children. The primary role is one of enhancing the development of young children but also contributing to a child's well-being by providing support and to help carers. After school provision is a

good example of this. Such schemes not only provide a safe environment for children whose parents may be at work but also enable children to develop a broad range of interests and adopt a positive approach to the use of leisure time. Day care also fulfils an important preventive role by providing a range of resources from mutual self-help to parent-craft training and health education. The local authority has a duty to provide day care for pre-school children in their area who are in need. In practice, this usually means day nurseries, play groups and daily minders.

Nurseries

All children aged three and four years old are eligible for a free part-time pre-school place. Local authorities have a duty to ensure that enough places are available for all three and four year olds whose parents want them to attend. The entitlement starts from the beginning of the school term immediately following the child's third birthday and continues until the end of the school term before they are eligible to start primary school.

The nurseries offer structured and unstructured play and help promote the child's social, emotional, physical and cognitive development. A nursery can also relieve stress on the parents/carers. Some nurseries offer their facilities for supervised and unsupervised contact visits between a child and parent specified by a court or children's hearing.

Befriending Schemes

Children may be befriended by volunteers on an individual basis. Children are matched to selected and screened volunteers who spend time with them and involve them in recreational activities. Most of the schemes require local authority support and funding. The aim is to provide the child with an additional non-professional form of adult support.

YOUTH JUSTICE

As part of the Scottish Government's strategy to reduce offending behaviour in young people, local commitment is encouraged to the overall aims for Scotland's Youth Justice Services, which are to:

- implement the Whole System Approach
 - the whole system approach aims to achieve positive outcomes for some of our most vulnerable young peoples, helping them to fulfil their potential and become valuable contributors to their communities
- deliver services in line with the Youth Justice Standards and Getting it Right for every Child
- operate on a multi-agency basis with each organisation taking appropriate responsibility as corporate parent

Young People Who Offend

The debate around young people who offend is often unhelpfully polarised: needs and deeds; victim and offender; individual and community; prevention and intervention. In reality, the evidence shows the only way to prevent “deeds” is to address needs. Young people who offend are often victims themselves and each aspect needs to be addressed. Prevention is the most cost-effective cure, but prevention demands that we intervene to stop the cycle of offending.

The offending behaviour of young people needs to be considered as part of a broader picture of who they are. Interventions need to be designed to be early, holistic and with a presumption that children stay in their communities. We need to ensure that in everything we do, we are protecting and promoting the rights of children, in line with the principles of the UN Convention on the Rights of the Child, Kilbrandon and Getting it Right for Every Child – all of which recognise that a child is defined as a young person under age 18, including when that young person has committed an offence.

It is only a very small minority of young people that get involved in offending, and an even smaller minority of them that cause the most serious problems.

Evidence shows that, of those young people who do get into trouble, 4 out of 5 learn their lesson and do not reoffend. That is good news – but rarely heard – and proves that appropriate intervention at the right stage is the best way to reduce even further

the very small minority of young people who pose a real risk to themselves and others, and present a greater challenge to us all.

Young people must be held to account, but in a way that is appropriate to their individual circumstances. Assessment of needs and risk is paramount in understanding what needs to be done to ensure young people meet their full potential and to protect the public from harm. There is no quick or easy solution but there is a need to challenge the root causes of these problems – often the pervasive effects of drink, drugs and deprivation.

Children’s Hearings and Young People Who Offend

The Scottish Government is implementing the ‘whole system approach’ throughout Scotland. This approach involves putting in place a streamlined and consistent planning, assessment and decision making process for young people who offend to ensure they receive the right service at the right time. The ethos of this approach suggests that we should be seeking to avoid young people entering the criminal justice system unless absolutely necessary.

Early and Effective Intervention

Effective responses to young offending involve recognition of needs and strengths, as well as attention to risks.

In this respect, this agenda is closely connected to “Getting it right for every child”, the programme which should guide and underpin the principles of work by all relevant agencies. The Getting it right for every child programme is founded on acting on the principles of early intervention, through appropriate, proportionate and timely intervention and provides a framework for putting them into action for all children and young people at the individual level.

Where the need for intervention has been identified, relevant agencies must act promptly, and in line with what other agencies are doing, to provide responses that are timely, proportionate, and effective and that inspire community confidence. It is crucial that all agencies are able to provide early and effective responses based on

an appropriate assessment of the individual's circumstances, not least so that children and young people can relate their actions to the impact and consequences and learn from this experience.

All agencies, including the third sector, should plan and work together in partnership with children, their families and others, to do everything possible to provide early and effective responses to problematic behaviour that best fits the circumstances of each individual case.

The Scottish Government is committed to:

- embedding the principles and practice of Getting It Right For Every Child across our agencies
- ensuring that all our systems are more effective in sharing information to support identification and intervention for young people at risk
- developing evidence based around what works in early and effective intervention
- identifying and disseminating good practice, including supporting local learning partners to develop knowledge and understanding around applying the principles and practice of “Getting It Right For Every Child” to young people who offend.

Compulsory Supervision Order vs Throughcare and Aftercare

A common reason for terminating a compulsory supervision order between the ages of 15-17 is the need for the young person to move on, for example, leaving the residence of family, or corporate parent. This often requires independent living arrangements and finances. A compulsory supervision order is often cited as a reason to terminate as it prevents the young person acquiring their own accommodation and finances. This should not be the case, as a corporate parent, local authorities can remain responsible, as the Throughcare and Aftercare guidance sets out that:

- the general principle is that young people should continue to be looked after until 18 if it is in their best interests. However, compulsory supervision orders are often terminated before that age. If a young person’s supervision order ceases before their school leaving date, they may become ineligible to receive financial support, which those still in care at their school leaving date are able to access.

- (to qualify, the child must still be “looked after” on the date they reach school leaving age – this is not exactly on their 16th birthday)
- If 16 between 1 March and 30 September – school leaving date is 31 May of that year – therefore entitled if “looked after” on or after 31 May
- If 16 between 1 October and the following 28 February – school leaving age is the first day of the Christmas holidays – therefore entitled if still “looked after” on or after the first day of the Christmas holidays
- Note: This means there is approximately 3 months when, by law, the child is not automatically entitled to aftercare support)
- local authorities have a duty to carry out an assessment of the needs of all young people over school age leaving their care, including those looked after at home. This assessment should determine what advice, assistance and support the authority should provide. The success of throughcare and aftercare depends on a shared sense of corporate parenthood across an authority. Children and Families and throughcare and aftercare services should work together to support the young person leaving care.
- children who have been looked after away from home may also be entitled to financial assistance from their local authority up to age 25. Where the compulsory supervision order is removed before the young person reaches school leaving age, this can have a detrimental effect on their ability to access that assistance. The financial support social services can provide is very important as care leavers can only claim DWP benefits at 16 or 17 if they are single parents or unable to work because of disability or illness.
- the hearing may request that the local authority continue to work with the child on a voluntary basis after a CSO has been terminated.

It may be that the young person cannot access some supported accommodation but there are other options available that can be developed with local authority housing or accommodation supported by third sector organisations. The Scottish Government is working with Local Authorities to support the development of such alternatives.

It is recognised that it is integral to the children's hearings system that panel members listen to the child, their family and professionals in order to make a decision based on evidence. To help in this decision making process, the Scottish Government is supporting social work departments to ensure that advice put to panel members is not of a negative nature and that appropriate resources to support single plans are in place. It will also highlight the need for their professional influence on decisions to be based on the Getting it Right For Every Child principles, the needs of the child, accurate assessments, and not influenced by any other issues, such as resources.

What works?

There is a consensus within literature that a certain level of involvement in trivial offending behaviour by youths can be considered a normal part of the process of growing up. It has been argued that adolescent offending is often 'linked to a range of other risk taking behaviours which in turn are associated with the search for identity in the transition from adolescence to adulthood'.

Key messages from the 'what works?' literature in relation to preventing a range of poor outcomes for children and young people (including offending) focus on providing early and effective intervention and a strategic approach to provision of services tiered according to levels of need and the age and stage of development of the young person. The criminological literature indicates that trends in antisocial and offending behaviour tend to be age-related which suggests that different forms of intervention will be required at different stages of the life-course. In addition, it is unlikely that tackling offending itself will be successful without a range of measures aimed at addressing wider 'psychosocial disorders' that generally accompany offending (including substance misuse, mental health problems, eating disorders, self harming, etc).

Young people change and learn in different ways and not surprisingly there is evidence to support the importance of matching the delivery of programmes and practitioner skills to the characteristics of the individual young person and their needs, including communication or learning disabilities and more complex needs.

In line with the Whole system Approach it is necessary to have a range of interventions available for young people who offend ranging from Early and Effective Intervention (e.g. restorative justice, voluntary social work intervention) to the most intensive intervention for those young people at risk of entering secure care or the criminal justice system.

Gender differences

A longitudinal survey conducted for the Home Office compared gender differences in risk factors for offending. Across a cohort of 397 families in Cambridge, they found that factors that predicted offending more strongly for girls were related to socio-economic and child rearing factors such as; low social class and income, poor housing, poor parental supervision, lack of praise, erratic discipline, parental conflict and a general lack of interest in the child's development.

In contrast factors predicting offending more strongly for boys were related to actual parental characteristics, including having nervous and poorly educated parents.

Explanations for why girls offend less than boys point to situational factors. It is argued that in comparison with boys, girls have less exposure to risk factors. Girls tend to be more closely supervised by parents, have less unstructured leisure time and therefore less opportunity to associate with anti-social peers.

Research also shows that girls and boys respond differently to risk factors. Whilst girls tend to 'internalise' emotional problems and display their distress via depression and self-harm, it is argued that boys are much more likely to respond to problems by 'overtly acting out behaviours, including various manifestations of criminal behaviour.

Recent Statistics

- offence referrals to the children's reporter have reduced year on year, down by over 50% in the last 4 years.
- the number of recorded crimes and offences committed by children and young people (8-17 year olds) decreased by 12% between 2008-09 and 2009-10 and by 18.9% between 2009-10 and 2010-11.

- the number of children and young people (8-17) who committed crimes and offences decreased by 9% between 2008-09 and 2009-10, and by 16.7% between 2009-10 and 2010-11
- the number of 16 to 21 year olds in the prison estate has decreased for both remand and direct sentenced prisoners by 14% and 17% respectively over 2010 – 11
- August 2011 – Only 13% of the Under 21 prison population were serving their first custodial sentence.

New National Youth Justice Standards

Objectives of Youth Justice Provision in Scotland aim to:

- provide quality youth justice processes and practice
- provide an appropriate range and availability of interventions for children and young people involved in offending behaviour
- promote early and effective intervention
- ease the transition between the children's hearing and adult criminal justice systems
- ensure that secure accommodation and detention is used only when it is the most appropriate disposal and that consideration has been given to alternatives
- improve information and assistance provided to victims of youth offending and local communities
- provide strategic direction and co-ordination of multi-disciplinary services for Children and young people who offend through locality planning and performance improvement.

Note: National Standards for Youth Justice Provision in Scotland are detailed in Appendix 2 of this section. *With thanks to the Reducing Reoffending Programme (Young People) at Scottish Government for this information on Youth Justice.*

National Youth Justice Practice Guidance can be found at: <http://www.cjsw.ac.uk>

Children Away From Home

While the services and support described above may meet the needs of some children and their families, other children will benefit from additional care outwith their family. Local authorities are obliged to assist children in such situations and

they can accommodate children in a wide range of circumstances. This may be with another family or in a residential home or school. For some, this will be a short-term requirement, but others may require substitute care for many years. Whilst it is very important that young people and children should not be in care any longer than it is necessary, it is also important that their experience of care should be a beneficial one. If the decision of the hearing is that a child should live away from home it is the responsibility of the local authority to put this into effect. Before making a recommendation to a hearing that a child should reside in a particular residential establishment, the local authority must be satisfied that the residential placement proposed is appropriate to the child's needs.

Children's Homes And Hostels

These are often provided and maintained by the social work service of the local authority but in addition use is made of the resources of the voluntary organisations to meet the demands. Often voluntary organisations can provide a specialist service which the authority is unable to provide. Establishments vary in size. Some specialise in a particular age range of children, e.g. preparing young people about 16 years old for living independently. Each establishment will have a statement of its functions and objectives which will be readily available. Children entering residential care should have a clear understanding of what is involved and it is important that they should be aware of their rights and responsibilities.

The number of children and young people in residential care has decreased over the years as more emphasis has been placed on keeping children in their own homes with appropriate support or by placing them with foster or community carers.

Foster Care

Foster care is one of the services which local authorities provide or commission voluntary agencies to provide under their duties to looked after children. Foster carers are recruited locally and are assessed, trained and formally approved as foster carers before they begin to care for children. Applicants, assessments take account of the following:

- experience, attitudes, expectations, understanding and perception of fostering

- capacity to work in partnership with the child's family
- capacity to provide a foster child with protection, nurture and opportunities for development
- ability to work with the fostering agency
- preferences and suitability as a foster carer for any particular group of children or for any particular fostering tasks.

Many children live temporarily, or sometimes permanently with their relatives or a family friend without any intervention by the local authority. Where, however, a child is looked after by the local authority, and is placed with a friend or relative the friend or relative must be approved as a foster carer except:

- where the placement is an immediate placement and lasts for less than six weeks
- where the placement is a condition of a compulsory supervision order made by a children's hearing.

In these two situations the local authority must be satisfied that the placement will be in the child's best interests. In addition, prior to placing the child, the social worker must:

- interview the proposed carer
- confirm that the person is a friend or relative
- inspect the accommodation
- obtain information about any other persons living in the household
- reach a written agreement with the proposed carer which specifies that the carer will:
 - care for the child as if he or she were a member of the carer's family and in a safe and appropriate manner
 - permit anyone authorised by the authority to visit the child at any reasonable time
 - allow the child to be removed any time by the local authority if the authority considers the placement is no longer in the child's interests
 - ensure that any information concerning the child or his or her family which is given in confidence remains confidential

- allow regular contact between the child and anyone with parental responsibilities where this is agreed by the local authority.

It is good practice for police checks to be sought on all members of the household and a health reference on the prospective carers.

Fostering Panel

Each local authority or voluntary organisation must appoint a fostering panel or panels which consider whether to recommend approval of foster carers. Where the panel recommends approval they must also recommend whether approval is for any child, for certain categories of children, for instance in a particular age range or those needing emergency care, or for a particular child or children, for instance a child already known to the potential foster carers. Most prospective carers will be assessed as having strengths and an interest in an age range or particular type of fostering. The fostering panel recommendations are made to the fostering agency who must make the decision. The composition of fostering panels is for the local authority to determine but one member must be a medical adviser and it is good practice for both sexes to be represented and for three people to represent a quorum. The chairperson should have considerable child care knowledge and be experienced and skilled in chairing meetings. Members who have been parents, foster carers or who have been fostered as a child are valuable. The panel should, where possible, reflect the backgrounds and heritage of children who are likely to need placement and the carers likely to seek approval.

Respite Care

Respite care schemes are intended primarily for children with disabilities although it can have a wider application. It may include respite care away from the child's home, in order to give the family a break, to extend the range and quality of the child's experience and give the child opportunities to develop increasing autonomy and independence. The arrangements vary greatly from provision within the child's home, daytime care, occasional overnight stays and regular periods of care with an approved family or foster carer, or in a residential home.

Refuges

It has been recognised that vulnerable young people should have a place to go on a short-term basis if they feel themselves to be at risk. The local authority may provide a refuge either in a residential establishment or a local authority household for a child who appears to be at risk. The establishment or household must be designated for this purpose. However, authorities are not obliged to provide them. A child must ask to go into a refuge and can only stay for seven, or in exceptional circumstances, fourteen days.

Secure Accommodation

Secure accommodation provides residential care where a child may be locked up or otherwise supervised in a way that physically prevents him or her from leaving the premises without approval. This type of accommodation has to be approved by Scottish Ministers. It is provided for children who are a danger to themselves and others in the community. It is designed to rehabilitate them and to protect the public. This involves controlling the child, including taking away their freedom; assessing the child's behaviour and needs; providing care to meet need and risk, education and treatment.

Several specialist units are registered to provide secure accommodation for children aged between 8 and 18. Each unit must have an open wing and must provide education.

Key Requirements For Child Care Services

The key features which should be taken into account in looking after any child or young person (particularly those away from home) are as follows:

Individuality and development

Young people and children in care have the right to be treated as individuals who have their own unique relationships, experiences, strengths, needs and futures, irrespective of the needs of other residents. They should be prepared for adulthood and supported until they are fully independent.

Rights and responsibilities

Young people, children and their parents should be given a clear statement of their rights and responsibilities. They should have a confidential means of making complaints. They should be involved in decisions affecting them and in the provision for their care. Their rights should be consistently respected.

Good basic care

Young people and children should be given a high standard of personal care. They should be offered new, varied and positive experiences of life and should be included in the wider community.

Education

Young people and children should be actively encouraged in all aspects of their education, vocational training or employment and offered career guidance. Their individual educational needs should be identified and met.

Health

Young people's and children's health needs should be carefully identified and met; they should be encouraged to avoid health risks and to develop a healthy life-style.

Partnership with parents

Young people and children in care should be cared for in ways which maximize opportunities for parents' continued involvement, and for care to be provided in partnership with parents, wherever this is in the interests of the child.

Child centred collaboration

Young people and children should be able to rely on a high quality of inter-disciplinary teamwork amongst the adults providing for their care, education and health needs.

A feeling of safety

Young people and children should feel safe and secure in any care setting.

Complaints

Young people need to be able to make their complaint in confidence particularly if they are being accommodated by the local authority. All local authorities have established complaints procedures in line with the government requirements which are sometimes part of the local inspection units. These units have a responsibility for inspecting all children's homes regularly. Young people are increasingly involved in the work of inspection, both locally and nationally.

Education Resources**Additional Support Needs**

Wherever possible children with additional support needs will be maintained within mainstream schools. Children and young persons have additional support needs if they have a learning difficulty which calls for provision for additional support to be made for them. A learning difficulty is said to be present if children:

- have significantly greater difficulty in learning than the majority of those of their age; or
- suffer from a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for those of their age.

Learning difficulties may be related to a physical or neurological disability or barriers to learning caused by social, emotional or behavioural problems, or mental illness. Children with additional support needs should be integrated in their local mainstream schools wherever possible.

A Co-ordinated Support Plan is an official document which may be opened for a very small number of children when the circumstances are serious enough to justify the child's needs being watched over regularly. It facilitates the identification of a child's learning difficulties so that long term educational plans may be made. Special facilities and resources may be provided such as auxiliary class room assistants.

Residential schools

In the main these cater for children between the ages of 8 and 16. The emphasis in these schools is on providing an education for the children at the same time as

helping them with their behavioural problems which cannot be managed in their home base. Each school may achieve these aims through different methods and it is important that you discuss these methods with the social workers at a hearing in order to help you decide where the most appropriate placement for the child might be.

Establishments operate individual care regimes which, combined with group care, are designed to best meet the needs of each individual child. These may involve nurturing care, remedial education, vocational training, and opportunities for children to gain in self-esteem by recognising and developing their own abilities. Some schools for example provide care for seven days a week. It is important that you find out what type of care is being offered. Not all schools are run by the local authority. Some are independent, with their own management boards and some are part of voluntary organisations, such as the Church of Scotland or Barnardos.

Education For Looked After Children

Key research findings

- Looked after children and young people can improve in both school attendance and attainment in a relatively short period of time when provided with additional support and engaged in flexible and individually tailored activities.
- Children and young people who had high levels of engagement in pilot activities made appreciably more progress in one year on reading and writing than others. This is very encouraging because it suggests that being involved in educational, cultural and sporting activity can make an impact in achievement and attainment.
- About 40% of the young people advanced by one 5-14 National Assessment level, much better than the average progress reported for all looked after children and similar to advances made by non-looked after children. Younger looked after children who had high levels of involvement in pilot activities in general made appreciably more progress in one year than the others in reading and writing.
- Tailoring support to suit an individual child or young person, being flexible, involving the young person in choosing the focus of learning, and providing a breadth of learning opportunities, appear to be effective strategies for improving the achievements of looked after children and young people.

- Giving children high but realistic expectations was seen as being very important, though this had to be done in a way that was not perceived as 'nagging'. Also very important was for professionals not to give up on children, even if they were initially reluctant to be engaged or who experienced problems during the project.

At Primary 3 stage it is expected that most children will have reached the first stage of assessment, i.e. Level A. While 95% of non-looked after children had reached this level, a smaller proportion of looked after children (89%) was found to have reached this stage.

However, by Secondary 1 this gap has increased significantly from 70% of non-looked after children to only 31% of looked after children reaching Level D. This example reinforces the importance of continuing monitoring of educational attainment and of early intervention.

The evidence from various studies is that looked after children and young people face significant cultural and institutional barriers which impede their success in education. Encouragement to achieve in a broader sense is more important than a narrow focus on educational attainment, however, there is research evidence showing that looked after children and young people with higher attainment have generally better life outcomes.

The experience of pilot projects showed that providing targeted additional support can help to improve educational attainment and achievement substantially. Having high but realistic expectations, and providing support for the child or young person and the other significant people in the wider system around the child, were crucial factors for success.

Suggestions for practice

- Concern for the development of looked after children and young people as individuals, is an important prerequisite for raising educational attainment and gaining national qualifications. In line with the Looked After Children: We Can And Must Do Better (Scottish Executive, 2007) report, all looked after children

and young people need to have opportunities to become effective lifelong learners, develop into successful and responsible adults, be emotionally, mentally healthy, and feel safe and nurtured in a home setting.

- Support systems need to encompass both those children and young people looked after at home and those looked after away from home. Schools have not always been clear about their responsibilities to those looked after at home. This group is known to have the poorest outcomes and variable access to additional support systems.
- Schools and carers should collaborate to ensure that looked after children and young people are actively encouraged to participate in study-related, cultural and sport activities. A looked after child or young person's broader engagement in activities should feature in care planning and personal education planning, and non-involvement should be regarded as a matter of concern.
- Pilot projects that achieved some of the most dramatic successes had worked very hard to help young people identify their goals. The HMIE report, *Count Us In: Improving the Education of Our Looked after Children* (HMIE, 2008), says that, wherever feasible, children should be given a voice in helping to identify and meet their needs.
- Several pilots devised or improved arrangements for personal education planning. Personal education plans help to present a more rounded view of the looked after child or young person's achievements by detailing broader achievements as well as academic attainments. They are useful in recording the young person's own aspirations and also in setting shorter-term targets, and specifying support arrangements. Plans should take into account supports available in the home environment (the '24 hour curriculum' approach). Looked after children and young people have the same rights to a good education as other children, and these include having a safe, secure, stable and educationally rich home environment.
- There are concerns about the poor mental health of many looked after children and young people. Educational psychologists and specialist looked after children nurses have an important role in providing advice and carrying out assessments.
- Early intervention is vital where there is danger of a looked after child or young person falling behind in their education. It is particularly important to ensure that

younger children make appropriate progress in reading, writing and maths. competence, as well as in other aspects of their education. Studies of the records of looked after young people who have fallen behind in their education indicate that in most cases the signs should have been evident to professionals much sooner.

"Recognise and show pride in children and young people's achievements, build their confidence and defend them against unfair criticism."

(These Are Our Bairns (The Scottish Government (2008a), p.21)

"I will know I've made a difference when the educational outcomes for looked after children and young people and care leavers, in terms of attainment and achievement, are the same as those for their peers who are not looked after."

(These Are Our Bairns (The Scottish Government (2008a), p.40)

Educational Outcomes For Scotland's Looked After Children, 2009/2010

This new publication contains statistics obtained from linking , for the first time, looked after children's data provided by publicly funded schools, the Scottish Qualifications Authority (SQA) and Skills Development Scotland (SDS).

Among the main findings are:

- the overall school attendance rate for looked after children was 87.8% in 2009/10 compared with 93.2% for all school children. School attendance rates were lowest for children who are looked after at home (78.7%)
- the overall exclusion rate for looked after children was 365 per 1,000 looked after children, compared with 45 exclusions per 1,000 pupils for all school children. Exclusion rates were highest for children who were looked after in a local authority home (866 per 1,000 children)
- the average tariff score for looked after children who left school during 2009/10 was 67 compared to 372 for all school leavers. However, this comparison is influenced by the fact that around 90% of looked after children who left school during 2009/10 were aged 16 years or younger when they left school, compared to only 37% of all school leavers being of this age when leaving school

- 59% of looked after children who left school during 2009/10 were in a positive destination at the time of the initial destination survey, compared with 87% of all 2009/10 school leavers. However, by the time of the follow-up destination survey, the percentage of looked after children who left school during 2009/10 who were in a positive destination had fallen to 44%, compared with 85% of all 2009/10 school leavers

Further information on schooling is in “Child, Family and Society” section of this Training Resource Manual.

Voluntary Organisations

There are many voluntary organisations which provide a service to children and young people. These may be one off organisations which deal with a small number of children on a very local basis to a large national voluntary organisation which may provide a network of provision. Most organisations work in partnership with the local authorities and if they provide residential accommodation or day care are required to be registered with the local authority. If the children’s hearing believe that an organization noted above is the best for the child, they may specify that in their directions on a compulsory supervision order and the local authority is obliged to arrange.

Agencies Working Together To Protect Children

In all investigations or child protection plans, the child’s welfare is the paramount consideration. Child care services and child protection work in particular require good inter-agency co-operation. It is important for all professionals to combine an open-minded attitude to alleged concerns about a child with decisive action when this is clearly indicated.

Child Protection Committees

Local authorities are required, either on their own, or in collaboration with other authorities, to have an inter-agency child protection committee. The committees have clear procedures and guidance for dealing with child protection referrals and for providing training and advice across the agencies. They have the task of developing, monitoring and reviewing child protection policies, and promoting effective and

harmonious co-operation between the various agencies involved. The committees are made up of representatives from all the main agencies, statutory and voluntary, which are involved in child protection work in the area and who have authority to speak and act on the agency's behalf. The children's reporter is usually a member of the committee.

Child Protection Guidelines

These provide a rapid reference for staff of all agencies involved in child protection in an area. They are the result of multi-disciplinary consultation and are approved by the Area Child Protection Committee for use by all agencies in that area. They contain sections on the definition, classification and identification of abuse and spell out the recommended action to be taken by each professional group in the event of child abuse cases coming to their attention.

Child Protection Case Conferences

These are central to the child protection procedures which each local authority will have. They are convened by the social work service to bring together the professionals concerned and provide them with an opportunity to exchange information and make plans together. They assist planning to help families and welfare agencies ensure that a child at risk is properly protected from harm and, when necessary, to ensure that concerns are registered. Parents and carers and, where appropriate, children are encouraged to attend case conferences. Account is taken of the child's views and feelings having regard to their age and understanding.

Care and protection or other services for the child and family should be based on a comprehensive assessment of the child and family's needs including an assessment of the level of risk to the child. Child protection plans are formulated to protect the child from harm or further risk of harm.

Amongst the options available to agencies is the convening of a case conference about an unborn child if there appears to be a risk of significant harm to the child when he or she is born. The case conference may decide that the child's name should be placed on the child protection register when he or she is born and agree an inter-agency child protection plan. The conference may recommend that the local

authority seek a child protection order at birth. Decisions of a case conference may be subject to a subsequent children's hearing decision - the case conference can only make a recommendation to the children's hearing. Throughout the child protection process, the work is conducted on an interagency basis.

The case conference is the prime forum for:

- sharing information and concerns
- analysing risk and formulating the plan for the protection of the child and for the
- provision of services to the child and family
- monitoring what is happening.

The Child Protection Register

Local authorities are responsible for maintaining a central register known as the child protection register. This lists all the children in the area who are currently the subject of an inter-agency protection plan. It ensures that the plans for these children are formally reviewed at least every 6 months. The register provides a central point of speedy inquiry for professional staff who are concerned about a child and want to know whether the child is the subject of an inter-agency plan. Registration does not of itself provide any protection. The inclusion of a child's name on the child protection register will normally only occur following a child protection conference. A child's name is usually only removed from the register when a case conference agrees that formal interagency working is no longer necessary to protect the child.

The register is maintained by the social work service and must be held separately and in secure conditions. Access to the register is available twenty-four hours a day. The keeper of the register (a designated local authority official) should notify other local authorities in writing when a registered family moves out of their area. The keeper may also be responsible for attempting to trace a registered child whose whereabouts have become unknown.

Joint Investigation

Joint investigation is a process whereby social work, police and health professionals plan and carry out their respective tasks together when responding to complex or

substantial child protection referrals. In any such investigation the welfare of any child or children at risk is the paramount consideration.

The police and social services should share and evaluate jointly all relevant information at an initial planning meeting, involving health services where possible since medical information and assessment may assist the planning and management of any injury. Planning should consider the child's needs, risk to the child and the conduct of child protection inquiries including any criminal investigation.

Agencies should adopt a measured approach when dealing with allegations of abuse by adults. They should make sure that their investigations do not prejudice efforts to collect evidence for criminal prosecution of any alleged abuser(s).

5 PERMANENCE

Children’s Hearings System and the Adoption (Scotland) Act 2007

This chapter outlines the ways in which the children’s hearings system inter-relates with the 2007 Adoption Act for Permanence Orders and adoption particularly.

Key inter-relationships

There are four main areas where the children’s hearings system and the 2007 Act meet.

- 1 Advice hearings for adoption and all Permanence Order applications, when children are subject to compulsory supervision orders.
- 2 When Permanence Order court applications are in court.
- 3 Termination of compulsory supervision orders when adoptions or Permanence Orders are granted.
- 4 Effect of Permanence Orders when children remain on compulsory supervision orders, or new compulsory supervision orders are made subsequently.

1. Advice hearings for adoption and Permanence Order applications

Advice hearings are not a new concept under the 2007 Act: they were introduced by the 1995 Act, and the 2007 Act amended that section without changing the essence of the process.

When a child is subject to a compulsory supervision order (CSO), any court dealing with an adoption or PO application should have a report from a children’s hearing, with its view about the application. This report contains the hearing’s advice to the court about the proposed court order. This type of children’s hearing is commonly referred to as an “advice hearing”, and the report is usually called “Advice”. The court must consider the report or advice but does not have to follow it. If a children’s hearing advises against an application, the court may still go ahead and grant the order, and vice versa.

Advice from children’s hearings is an essential part of court applications for adoptions, Permanence Orders, and Permanence Orders with Authority for Adoption when the children are subject to compulsory supervision orders.

2. Interface between Compulsory Supervision Orders and Permanence Order court applications

Unlike advice hearings, this process is a new one and was introduced by the 2007 Act. It affects children who are subject to compulsory supervision orders and for whom there are PO court applications, but it does not impinge on every child in this situation.

When there is a PO application in court for the child, his or her existing compulsory supervision order cannot be varied, unless the court “refers the child’s case to the Principal Reporter”. Similarly, if there is a PO application in court, a new compulsory supervision order cannot be made for the child. This applies not only to an application for a PO, but also to an application for variation or amendment of an existing PO.

It is crucial to realise that this process does not occur in every case when there is a PO application before the court but does:

- **if** there is a PO case before the court **and** the child is the subject a CSO and a hearing wants to change the terms of the CSO; or
- **if** there is a PO case before the court **and** the child is not the subject of a CSO **but** a hearing wants to make one.

The hearing must write a report for the court, stating what changes it wants to make to the compulsory supervision order, or what new compulsory supervision order it wants to make.

The report must contain the terms of:

- the proposed new compulsory supervision order
- any existing compulsory supervision order
- any proposed modification to an existing compulsory supervision order

- any conditions in the above
- any residence requirements in the above
- any duties imposed on the local authority

*(This part is done by the **children's hearing members** together with their **reasons**)*

- the report of the proceedings, which includes:
 - place and date of hearing
 - name and address of child, relevant persons, and others present
 - various other details of the hearing

*(This part is done by **reporters**)*

This report is sent to the court dealing with the PO application. The clerk of the court then sends the report to everyone involved in the PO application and in the hearing process.

They all have seven days to respond, at which point the court must make its decision to agree or not agree with the proposed change or new compulsory supervision order; or it must fix its own court hearing to discuss the matter to be held within seven days. This court hearing may be continued twice, but for no more than 14 days each time. The court must therefore make its final decision, to agree or not agree with the proposal, within a specific timeframe.

When the court has made its decision, this is sent back to the hearings children's system, through the reporter and there should then be another children's hearing to implement what the court has said. If the court agrees with the proposal, the children's hearing may then vary the CSO or make the new one, as it wishes. If the court does not agree with the proposal, the next hearing cannot vary the existing compulsory supervision order or make a new one, as wanted by the previous hearing.

3. Termination of Compulsory Supervision Orders when adoption or Permanence Order granted

When a court grants an adoption order or any PO, and the child is subject to a compulsory supervision order, the court 'must' terminate that compulsory supervision order if it 'is satisfied that....compulsory measures' are no longer 'necessary'.

This does not mean that a CSO must always be terminated when a PO is granted, but that it should only be left in place if its continuance is necessary for the child. The expectations, therefore, is that a CSO will be terminated by the court when an order is granted, unless there is a good reason for it to continue.

The most common reason would be when an appeal against the order is clearly anticipated, and the CSO is needed to provide legal security for the child until the appeal is resolved. However, in most cases, the clear intent of the legislation is that a child who has been adopted or is subject to a PO should not also normally require a CSO.

4. Effect of Permanence Orders when children remain on Compulsory Supervision Orders or new Compulsory Supervision Orders are made subsequently

There will not normally be CSOs for children who are subject to POs, or possibly only for a short time after POs are granted and/or there are appeals.

However, there will be situations when children for whom there are POs are also subject to continuing CSOs or have new ones made. This is most likely to occur for children who are involved in offending behaviour.

The only provisions which apply when children are subject to both POs and CSOs are that a local authority which has a PO for a child 'must not act in any way which would be incompatible with...a CSO'.

This means, for example, that if a child on a PO has a CSO with contact directions, these will effectively take precedence over contact arrangements under the PO. The same could apply to arrangements about where the child lived – a CSO may interfere with the local authority's right to control the child's residence.

Permanence Order /Children's Hearings Interface

This process applies when there is a pending court application for

- any permanence order:

- any variation of a permanence order; and
- any amendment of a permanence order

Where there is a pending court application in one of these cases, a children's hearing cannot vary an existing CSO or make a new one without the permission of the court dealing with the application.

This is true even if everyone agrees with the variation/new CSO.

Stage 1 Children's Hearing wants to

- vary a child's existing CSO; or
- make a new CSO for a child who is not already on a CSO

Hearing prepares a Report, saying what it wants to do, and why, and the hearing is continued

Stage 2 Reporter sends the Report to the court dealing with the PO/PO variation

Stage 3 Sheriff clerk intimates report to all parties to the court application and to all "relevant persons".

They all have 7 days to respond to the court and a Form is provided

Stage 4 After 7 days, the court

- (a) decides to allow the variation of CSO/new order and "refer" to the hearing or
- (b) decides not to allow the variation of CSO/new order and not "refer" to the hearing or
- (c) fixes a court hearing about the proposal or
- (d) makes any other order appropriate for the 'expeditious progress of the case'.

Stage 4A If the court decides (c), to fix a court hearing

This must be within 7 days of that decision and the sheriff clerk intimates this court hearing to:

- I. parties to the application for PO/PO variation; **and**

- II. anyone who has lodged a Form or Response; **and**
- III. any “relevant person” not included in the above; **and**
- IV. anyone else the court thinks is appropriate.

Stage 4B

At the hearing the court may

- make a decision (a) to allow the variation/new CSO and “refer” or
- make a decision (b) not to allow the variation/new CSO and not to “refer” or
- continue the hearing for no more than 14 days.

Stage 4C

At any continued hearing, the court may

- make a decision (a) to allow the variation/new CSO and “refer” or
- make a decision (b) not to allow the variation/new CSO and not to “refer” or
- continue the hearing again for no more than 14 days

Stage 4D

At any 2nd continued hearing, court must make its final

decision

*With thanks to BAAF Good Practice Guide “Permanence and adoption for children“
by Alexandra Plumtree*

6 LOOKED AFTER CHILDREN (SCOTLAND) REGULATIONS 2009

The 2009 regulations revoked and replaced both the Fostering of Children (Scotland) Regulations 1996 and the Arrangements to Look after Children (Scotland) Regulations 1996 which were collectively better known as “the fostering regulations”.

The 2009 regulations introduce a number of new measures and some new duties on local authorities. These include:

- the recognition of a separate group of carers, known as “kinship carers”
- the duty to provide a “child’s plan” by removing the condition “so far as is practicable”
- there are new duties to consult with the child (taking into account their age and maturity)
- a new power to extend emergency placements in certain circumstances for a further six week period

The regulations apply to children who are formally ‘looked after’ by the local authority. A child is ‘looked after’ by the local authority where the child is:

- subject to a compulsory supervision order or interim compulsory supervision order
- subject to a child protection order
- subject to a permanence order (which transfers parental rights and responsibilities to the local authority and named carers)
- placed with a carer or in a residential establishment

Note: a child may also be “looked after” but able to reside at home.

From the panel member’s perspective the regulations apply where a local authority submit a report to a children’s hearing in which they recommend that the child:

- be cared for by their parents or any person with parental responsibilities or parental rights in relation to the child
- be placed with a kinship carer
- be placed with a foster carer

- be placed in a residential establishment, or
- be placed with any other person who is not a relevant person in an emergency

Information required by the Regulations

The regulations place an order on the local authority to carry out a full assessment of the needs of the child both short and long term. This assessment must seek and take into account the views of the child, the child's parents and any person with parental responsibilities. This assessment will normally provide the basis of the social background report at a children's hearing.

In addition to this, in recommending the placement of a child with a particular carer, the local authority must satisfy panel members that the necessary checks have been carried out and that the proposed placement is in the best interests of the child.

Information such as follows should normally be included:

- name, birth, date, health, personality and marital status
- particulars of other adults in household and their relationship to the prospective carer
- particulars of children in the family and in the household
- address and particulars of the prospective accommodation
- religion and capacity to care for a child of any religious persuasion
- racial origin and capacity to care for a child of any particular origin
- capacity/ability to care for children

Placement with any other person who is not a relevant person in an emergency

The Regulations make provision for a child who is looked after and is to be placed in an emergency.

The local authority have to be satisfied that an emergency placement is the most suitable way to meet the child's needs and that the person with whom the child is to be placed has signed a written agreement with the authority.

For an initial period, not exceeding three days, the local authority may place the child with any person approved as a foster carer or kinship carer or, any person who is known to the child and who has a pre-existing relationship with the child.

Within three working days, the local authority must review the child's case to determine whether the placement continues to be in the best interests of the child. The local authority may allow the placement to continue for a further period not exceeding twelve weeks from the review date but a further review must be carried out by the local authority before the expiry of six weeks.

7 SUMMARY

Children's hearings make decisions about children who are in need of compulsory intervention. They do not do this in isolation but as part of a network of agencies working together to promote children's welfare. A thorough knowledge of the roles and responsibilities of people working within and alongside the children's hearings system will help panel members to make effective decisions.

Resource provision for children and families changes continually and it is important that panel members update their knowledge and understanding of children's services throughout their panel membership. This part of the manual provides a framework from which panel members can begin to develop awareness of resources within their own panel areas.

Appendix 1

Glossary, Further Reading

GLOSSARY

ACCOMMODATION

Provided by the local authority for a period of more than 24 hours for a child where:

- no-one has parental responsibilities for the child;
- the child is lost or abandoned; or
- the person who has been caring for the child is prevented from providing the child with suitable accommodation or care.

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

- Legislation which supports applications for Permanence Orders

AFTER CARE

The local authority has a general duty to help prepare a child to leave their care, in particular they must:

- advise, guide and assist any child under 19 who was looked after by the local authority at any time after he or she reached the school leaving age
- young people between 19 and 21 can ask for advice, guidance and assistance and the local authority can agree if this is in the young person's best interests.

ANTISOCIAL BEHAVIOUR etc (SCOTLAND) ACT 2008

- Legislation which deals with Antisocial Behaviour Orders, Intensive Monitoring and Support, Parenting Orders

ANTISOCIAL BEHAVIOUR ORDER

A civil order that exists to protect the public from behaviour that causes, or is likely to cause distress.

AREA SUPPORT TEAM

Area Support Teams are there to provide standardised local support for panel members and maintain appropriate links with local authorities.

ART AND PART

Active participation of an indirect nature before or during the commission of a crime. Presence alone is not enough, active involvement is required.

ASSAULT

Any deliberate / unjustifiable attack upon another.

ASSESSMENT

This can be in the community or in a residential setting and include information from psychologists (educational and/or clinical); psychiatrists; and any specialist services. Continuation for an assessment is made when additional information is required, more detailed explanations are needed, or information from additional sources is requested. Careful thought should be given regarding assessment in a residential setting. *This process should not be confused with a Child Assessment Order, which can only be issued by a sheriff.*

BEST PRACTICE

The hearings system is governed by the Act and Rules and Best Practice Guidance helps make the legal process 'user friendly'. The Guidance is issued by the Scottish Executive and is used by panel members throughout Scotland. Issues from the Guidance are incorporated into the Training Resource Manual.

CARE PLAN

Each looked after child is required to have a care plan which details the immediate and longer term plans for the child, details of services to be provided and the responsibilities of the local authority to the child and parents.

CARE REVIEWS

Local authorities are required to review cases of all children who are looked after by them at certain specified intervals.

CHAIRING MEMBER

The member of the hearing with specific responsibility for chairing the hearing.

CHILD

Under the Children's Hearings (Scotland) Act 2011 usually a child is either under 16 or under 18. A local authority's duties relate to children under 18. For hearings it means:

- a child is a person who is not yet 16 years of age
- a child over 16 years of age but is subject of a compulsory supervision order
- a child over the age of 16 years of age but not yet reached school leaving age.

CHILD ASSESSMENT ORDER

An order granted by the court on application of a local authority which enables social workers to gain access to any child whose safety they are concerned about and whose parents are refusing to co-operate. The order, which is time limited to a maximum of 7 days, allows for assessment of a child's health and/or development or to investigate how a child has been treated. The sheriff must be satisfied that there is reasonable cause to suspect that child is suffering or is likely to suffer significant harm and that an assessment of the child is necessary to resolve these concerns. The child may be removed from home to allow the assessment to take place.

CHILD PROTECTION ORDER

An order granted by the court where the sheriff is satisfied that there is reasonable cause to believe that a child is suffering or is likely to suffer significant harm and cannot be protected other than by removal from home. If no application is made to set the order aside it will be reviewed by a hearing on the second working day. A Child Protection Order lasts for a maximum of eight working days after it has been implemented.

CHILD PROTECTION COMMITTEES

Multi-agency, in place in each local authority (or in collaboration with others) to develop, monitor and review child protection policies and guidance for dealing with child protection referrals and promote inter-agency working.

CHILD PROTECTION REGISTER

Maintained by local authorities listing all children in the area who are the subject of

an inter-agency child protection plan.

CHILDREN AFFECTED BY DISABILITY

A person with a disability is defined as someone with:

- a chronic sickness or disablement
- suffering from a mental disorder.

Services must be designed to minimise the effect on children of either their own disability or that of a family member, and to allow them to lead as normal a life as possible.

CHILDREN'S HEARING

A lay tribunal composed of three panel members one of whom chairs the proceedings. Both genders must be represented. The hearing is charged with deciding if a child requires a compulsory supervision order.

CHILDREN'S HEARINGS SCOTLAND

A new national body established to support the national Children's Panel and provide assistance to the National Convener.

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

The Act which provides the legislative framework for the conduct of Children's Hearings. A copy of the Act is issued with Training Resource Manual Volume 1.

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (RULES OF PROCEDURE IN CHILDREN'S HEARINGS) RULES 2013

The rules concern the operation of the Children's Hearings (Scotland) Act 2011 in relation to children's hearings. A copy of the Rules is issued with Training Resource Manual Volume 1.

CHILDREN'S PANEL

Is a body of lay people appointed by the National Convenor on the recommendation of an Area Support Team.

CHILDREN'S SERVICE PLANS

A local authority must publish plans for services for children in their area. There is also a duty on the local authority to consult with other specified people, including the Area Convener of the children's panel, when drawing up plans and reviewing them.

CLOSE CONNECTION

This is defined as the child being a member of the same household as the person or that the child is not a member of the same household but has significant contact with the person.

COMPULSORY SUPERVISION ORDER

An order put in place by a hearing to impose measures of protection, guidance, treatment, or control on a child.

CONDITIONS

Allow panel members to make their intentions for supervision more specific. Conditions may include matters relating to, e.g. contact, where a child should live; secure accommodation, non-disclosure of address.

CONTACT

Contact between children and their parents (and brothers, sisters) is a basic right which should only be regulated if the welfare of the child might be compromised. Contact includes face to face meetings, letters, phone calls etc.

DEFER

A hearing, if it considers it appropriate, may defer making the substantive decision to a subsequent children's hearing. Interim decisions may be made when deferring.

DIRECTION

One of the measure that can be applied to an CSO for example authorising the person who is in charge of the place where the child is required to live to restrict the child's liberty to the extent that person considers appropriate having regard to the measures included in the compulsory supervision order.

EMERGENCY PROTECTION

This allows the local authority and others to take steps to protect a child in an emergency prior to seeking a child protection order.

EXCLUSION ORDER

Order granted by the court to remove the suspected abuser from the home in order that a child who is suffering or likely to suffer significant harm may remain at home. Used in place of a Child Protection Order.

FIRE RAISING

Causing all or part of the property to be consumed by fire. Fire must have been started intentionally / recklessly.

GUARDIANSHIP

The legal situation where a court or parent who has parental responsibilities and rights passes these on to an appointed person to act in their place in the event of the parent's death. A guardian must be appointed in writing and children should be asked their opinion before any appointment. Guardianship lasts until the child is 18.

IN NEED

The Act defines a child as being in need of care and attention if:

- he or she is unlikely to achieve or maintain a reasonable standard of health or development unless services are provided by the local authority
- his or her health and development is likely to be seriously impaired or further impaired without such services
- he or she is disabled
- he or she is affected adversely by the disability of a member of the family.

A local authority must provide a range and level of services to safeguard and promote the welfare of children in its area who are in need and to promote the upbringing of children in need by their families.

INTERIM COMPULSORY SUPERVISION ORDER

Broader than a warrant as the child need not be required to reside in a place of safety. It can be issued where it is necessary as a matter of urgency for the protection, guidance, treatment or control of a child. May contain any of the measures possible for a CSO. Maximum duration 22 days. Where a proof application is pending, maximum total duration of ICSOs issued by a hearing is 66 days.

INTERIM VARIATION OF COMPULSORY SUPERVISION ORDER

Where a CSO is in force, any interim change to the compulsory provisions applying to a child is achieved through an interim variation of the CSO. The order which is then in force remains the CSO, but as varied. Maximum duration of the interim variation is 22 days, but there can be further interim variations.

LEGAL ASSISTANCE

The body responsible for the provision of legal assistance is the Scottish Legal Aid Board (SLAB). Legal assistance may be provided

- To allow the child or any relevant person to participate effectively in the hearing it is necessary that the child or relevant person be represented by a solicitor or counsel: and
- It is unlikely the child or relevant person will arrange to be represented by a solicitor or counsel

Legal assistance will automatically be available to children at the following hearings:

- Second working day hearings
- Custody hearings
- Any hearing considering secure accommodation

The child has to have the capacity to instruct a solicitor.

LOOKED AFTER

Children who are looked after are those who are:

- provided with accommodation by local authorities under s.25 of the Act
- subject to compulsory supervision order (whether living at home or away from home)

- subject to an order, warrant or authorisation under which the local authority has responsibilities for the child.

The local authority has a duty to look after children to:

- safeguard and promote the child's welfare
- provide family support services where the child is living at home
- promote contact between child and parents
- ascertain and take account of the child's views and views of parents and other relevant adults
- have regard to the child's religion, race, culture and linguistic background
- review the child's case at regular intervals.

MALICIOUS MISCHIEF

Intentional or reckless destruction or damage to the property of another.

MEASURES

Measures can be added to a compulsory supervision order or an interim compulsory supervision order. These measures can be directions, conditions or requirements.

MEDICAL EXAMINATION and TREATMENT

Under the Age of Legal Capacity (Scotland) Act 1991, children under the age of 16 have capacity to consent to their own medical examination and treatment where, in the opinion of the qualified medical practitioner, the child is capable of understanding the nature and possible consequences of the examination or treatment.

MEDICAL EXAMINATION ORDER

If a hearing requires further information and considers it necessary to do so, it may make an order for a medical examination. This order that may include a range of measures including attendance or residence at a clinic or hospital.

MOVEMENT RESTRICTION CONDITION

Restriction on child's movements as specified and imposition of electronic monitoring. Criteria apply. Can be included in a CSO or ICSO.

NATIONAL CONVENER

The National Convener is the principal officer and Chief Executive of Children's Hearings Scotland.

NO ORDER PRINCIPLE or BENEFICIAL PRINCIPLE

A court or hearing should only impose an order if it would be better for the child to do so than not making an order at all.

PARENTAL RESPONSIBILITIES

Under the Act, parents have the following responsibilities towards their children:

- to safeguard and promote child's health, development and welfare until the child is 16
- to provide appropriate direction until the child is 16 and guidance until 18
- maintain good personal relationships and contact with the child until 16
- to act as a legal representative until child is 16.

PARENTAL RIGHTS

Under the Act, parents have rights to:

- regulate the residence of a child under 16
- direct the child's upbringing
- maintain contact
- act as a legal representative

where this is in the child's best interests.

PARENTING ORDER

A parenting order will direct a parent as to how he or she should behave in respect of their child. It will require a parent to undertake certain actions which should lead to improvements in reducing the offending or antisocial behaviour of their child or improve the welfare of the child. The order would also require the parent to exercise control over their child's behaviour. This could include ensuring that the child attends school, avoids contact with certain individuals or visiting certain areas.

PERMANENCE ORDER

An order that gives the local authority

- The “right to control residence” is automatically removed from the child’s parents
- The “responsibility to provide guidance” **may** be shared with the child’s parents

and the hearings role is to provide a report to the court as to the suitability of such an order.

PERMANENCY PLANNING

Decisions made on the long-term future of children who have been removed from their families’ care. Its purpose is to ensure that the child has a permanent, stable and secure upbringing either with their original family or with alternative high quality care.

PLACE OF SAFETY

The temporary placement of a child where there are concerns about his or her safety. This could be a residential or other establishment provided by the local authority and includes a foster carer’s home, a hospital, police station, surgery or other suitable place the occupier of which is willing temporarily to receive the child.

PRE-HEARING PANEL

Pre-Hearing Panels replace, and extend the current provisions on business meetings. They will be arranged to deal with:

- whether to deem someone a relevant person
- whether a child can be excused from their duty to attend a children’s hearing
- whether a relevant person can be excused from their duty to attend a children’s hearing
- whether the hearing is likely to consider making a compulsory supervision order with secure accommodation authorisation
- any other matter specified in the rules.

PROCURATOR FISCAL

A legal officer who performs the functions of a public prosecutor.

PROHIBITIONS

One of the measures that can be applied to a CSO – for example allowing the address of the child to be withheld.

PROOF HEARING

A hearing held in private before the sheriff to establish (or not) the statement of grounds.

REFUGE

A local authority may provide refuge for a child / young person who appears to be at risk. The refuge must be designated to be a refuge and could be in a residential establishment or local authority approved household. The young person will only be allowed to stay for 7 days, or in exceptional circumstances 14 days.

RELEVANT PERSON

Under the Act in relation to children's hearings, a relevant person is:

- any person who has parental responsibilities and rights over the child
- all parents
- any person who has (or has recently had) significant involvement in the upbringing of the child.

REPORTER

A person employed by the Scottish Children's Reporter Administration to whom referrals about children are made and who makes decisions whether to refer a child to a hearing.

REPRESENTATIVE

A person attending a hearing to assist the child and / or relevant person(s) in the discussion of the child's case.

REQUIREMENTS

A measure applied to an CSO for example compelling the child to comply with specific measures.

RESET

Handling goods knowing them to have been acquired illegally.

RESIDENCE ORDER

An order made by a court which regulates the arrangements about where, and with whom a child will live. If an order is made in favour of someone who does not have parental responsibilities and rights (e.g. grandparents, aunts) then that person will hold responsibilities and rights until or unless the order is changed. This lasts until the child is 16.

SAFEGUARDER

An independent person appointed by a children's hearing (or by a sheriff) to safeguard the interests of the child in the proceedings.

SCHOOL LEAVING DATE

For children whose 16th birthday is between

- 1 March and 30 September - the date is 31st May
- 1 October and 28/9 February - the date is Christmas.

SCOTTISH LEGAL AID BOARD

Body responsible for the provision of legal assistance to children and / or relevant person(s).

SCOTTISH ASSOCIATION OF CHILDREN'S PANELS

Involves representatives from panels throughout Scotland and provides a forum for sharing views and promoting understanding of the system to the wider community.

SCOTTISH CHILDREN'S REPORTER ADMINISTRATION

Non-departmental public body whose statutory function is to manage the reporter

service and to provide suitable accommodation and facilities for children's hearings.

SECTION 67 GROUNDS

The seventeen conditions contained in the Act which indicate a child may need compulsory supervision.

SECURE ACCOMMODATION

Accommodation approved by the Scottish Executive to meet social, educational and health needs of young people when their liberty needs to be restricted.

SHERIFF

Lawyer or advocate of ten years standing appointed to a sheriff court to administer the law.

SIGNIFICANT INVOLVEMENT

The test for a person to be deemed a relevant person is that they have (or have recently had) a significant involvement in the upbringing of the child. Our interpretation of significant involvement is one where the individual concerned has key involvement in the core decision making for the child and their life involving where the child stays, the child's schooling and health matters. The category of 'deemed relevant person' is additional to that of 'relevant person'

SOCIAL BACKGROUND REPORT

Report provided by the local authority which provides detailed information on the child and the family and recommends a course of action to guide the hearing.

SOCIAL WORK SERVICES INSPECTORATE

Part of the Scottish Executive who have a responsibility for the quality of social work services across Scotland.

SPECIFIC ISSUES ORDER

An order made by the court which regulates any specific question which has arisen in relation to parental responsibilities, rights, guardianship or administration of a child's property.

SUPERVISION

Measures taken for the protection, guidance, treatment or control of children.

TIME INTERVALS WORKING GROUP

A multi-agency group set up to consider the setting of national standards covering time-scales and other aspects of the delivery of services to children within the children's hearings system.

THROUGH-CARE

Is the process by which the local authority plans and prepares the young person they are looking after for the time when he or she will cease to be looked after.

WARRANT TO SECURE ATTENDANCE

Warrant for police to search for, apprehend, take and detain in a place of safety, and bring the child to the children's hearing or court hearing.

WORKING DAY

Every day except Saturdays and Sundays; 25 and 26 December and 1 and 2 January.

ABBREVIATIONS

ABC	Acceptable Behaviour Contract
Act	Children's Hearings (Scotland) Act 2011
ASBO	Antisocial Behaviour Order
AST	Area Support Team
CHS	Children's Hearings Scotland
CHTO	Children's Hearings Training Officers
CPO	Child Protection Order
CSO	Compulsory Supervision Order
C & YPG	Children and Young People's Group
IAF	Integrated Framework Assessment
IAR	Initial Assessment Report
ICSO	Interim Compulsory Supervision Order
IER	Initial Enquiry Report
MEO	Medical Examination Order
MRC	Movement Restriction Condition
PF	Procurator Fiscal
PHP	Pre-hearing Panel
POS	Place of Safety
Rules	The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013
SACP	Scottish Association of Children's Panel
SBR	Social Background Report
SCRA	Scottish Children's Reporter Administration
SER	Social Enquiry Report

SLAB	Scottish Legal Aid Board
SWD	Social Work Department
TIWG	Time Interval Working Group

9 FURTHER READING/CONTACT INFORMATION

Children's Hearings (Scotland) Act 2011

Children's Hearings (Scotland) Act 2011 Explanatory Notes

The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013

The Children's Hearings (Scotland) Act (Safeguarders Panel) Regulations 2012

The Children's Hearings (Scotland) Act 2011 Compulsory Supervision Orders etc.: Further Provision Regulations 2012

Children's Hearings Scotland – www.chscotland.gov.uk

Guidance on the child's or young person's plan – GIRFEC www.scotland.gov.uk

Child and Adolescent mental health – www.cahms.org

Looked after children (Scotland) Regulations -

www.scotland.gov.uk/Publications/2009/06/10143048

National youth justice Practice Guidance – www.cjsw.ac.uk

Educational outcomes of Scotland's looked after children, 2009/2010 -

www.scotland.gov.uk/Resource/Doc/284726/0086480.pdf

BAAF Good practice Guide "Permanence and adoption for children" - ISBN: 978 1907585 098

Written by Alexandra Plumtree

Appendix 2

Competence Framework

Background

In 1999 the Scottish Executive published *Children's Panel Training: design, content and evaluation*. The guidance covered a number of stages of panel member training. The document detailed the principles of teaching and learning on which the design and content of children's panel training is based as well as outlining the training provision and methods used to deliver the training. The guidance also described the approaches used to evaluate progress and performance of individual panel members during induction training. Quality assurance is intended to highlight the importance of ensuring the training is 'fit for purpose'.

Next steps

The competences included in the guidance were restructured and consolidated into a framework of six headline competences, published in 2003 as the Competence Framework for Chairmen and Members of Children's Hearings. Children's hearings are legal tribunals and panel members are trained lay tribunal members. In order for panel members to be able to take up appointment they must be assessed as having satisfactorily completed Induction Stage 1 (pre-service) and demonstrated in training the ability to meet the competences. Panel members' performance at hearings will continue to be measured against the Competence Framework throughout their service.

The format of the framework

The framework has been updated to include seven main competences, each one representing a core element of the role.

- A Law and procedure
- B Equal treatment
- C Communication
- D Conduct of hearing
- E Management of information
- F Decision making
- G Protecting rights

Competences and performance indicators

The competences relevant to each core element of knowledge and skill are stated. A competence can be defined as a learned skill assessed through observation of performance. For each competence there are performance indicators which set out the evidence required to show that a competence has been demonstrated. Each member of the hearing must be able to demonstrate their ability to meet the competences. There are additional competences and performance indicators which apply to the chairing member.

Using the competence framework

The framework provides an essential self-development aid for individual panel members throughout their service. They should be encouraged and supported to be self-critical about their performance and training needs.

Assessment against competences can enable individual needs to be accurately identified through effective monitoring by Area Support Team monitoring members. It also assists those providing training, enabling them to design programmes, or specially tailored courses, which ensures that panel members acquire and use the skills and knowledge necessary to undertake their role competently and with confidence.

The Competences

A Law and procedure

To ensure an appropriate level of knowledge of the law, procedure and best practice in children's hearings

Each member of the hearing

<p>1 Understand the legal framework and procedures of children's hearings</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Is able to accurately describe and explain (in outline) the legal framework and procedures of a children's hearing • Can describe the roles and responsibilities of those involved in the children's hearings system • Acknowledges any gaps in own knowledge and seeks information or views from relevant sources to clarify
<p>2 Understand the principles underlying the children's hearings system</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Keeps focus on the welfare of the child • Is able to regard the need to safeguard and promote the welfare of the child throughout the child's childhood as the paramount consideration • Seeks the views of the child in whatever form they may take and takes account of them • Demonstrates through their decision making understanding of the beneficial order principle • Demonstrates understanding that their role is to make a decision and not to lecture or mentor • Ensures the maintenance of the rights of the child and others present at the hearing • Understands the need to maintain confidentiality by storing papers safely and returning them to the reporter at the end of the hearing
<p>3 Understand when to access legal information or advice through the office of the national convener</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Ensures views and information are obtained during the hearing from all sources • Is aware of when to obtain legal

	information or advice through the national convener's office
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Chairing members

<p>4 Possess sufficient knowledge and understanding of the legislation and best practice relevant to children's hearings</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Is able to apply accurately the legislation and rules during the hearing • Obtain views from appropriate sources when required • Enables all participants to express their views during the hearing and takes account of them • Ensures the maintenance of the rights of the child and others present at the hearing
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B Equal Treatment

To ensure and promote equal treatment for all involved in children's hearings

Each member of the hearing

<p>1 Are aware of and respect cultural and other differences among all who appear before a hearing, including differences in age, beliefs, gender, race, religious customs, sexual orientation, class, lifestyles, language or any physical or learning disability</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Uses correct forms of address and appropriate language • Asks questions and encourages and engages in discussion in a manner that is sensitive to people's circumstances • Participates in the hearing in a way that enhances and promotes fair and equal treatment, by appropriate approach, attitude and non-verbal behaviour • Ensures that the needs and rights of everyone attending the hearing are properly accommodated.
<p>2 Facilitate and encourage the participation of the child and family and all other parties to ensure a fair hearing takes place</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Explains in everyday language the procedural, legal and other issues covered in the hearing, as appropriate, and seeks clarity of their of their understanding. • Takes necessary account of all factors that may discriminate and undermine full and effective participation • Is open-minded and has not pre-judged the outcome of the hearing • Understands the need to protect rights and enable participation where there is a lack of capacity to understand and participate • Ensures the maintenance of the rights of the child and others present at the hearing

NOTE: for consideration and insertion at appropriate time:

The Act states that the chairing member must inform the child of the availability of children's advocacy services, unless if taking account of the age and maturity of the child, the chairing member considers that it would not be appropriate to do so.

C Communication

To ensure effective and purposeful communication at a children's hearing

Each member of the hearing

<p>1 Communicate effectively</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Asks clear, concise and relevant questions which are understood by those to whom they are addressed • Uses open-ended questions wherever possible, avoiding leading or shaping what is said by participants • Employs active listening skills by being attentive, checking perceptions, and allowing time for responses • Demonstrates appropriate body language through suitable posture, gestures, facial expressions and eye contact • Regularly checks the understanding of all participants without being patronising • Enables those present to participate in the discussion and contribute to the decision-making process • Demonstrates awareness of own and others' non-verbal behaviour and its impact on the child and others at the hearing
<p>2 Communicate purposefully</p>	<ul style="list-style-type: none"> • Ensures the child has opportunities at all stages of the hearing to express their views • Decides where appropriate to speak to the child on their own • Avoids using terminology, jargon and acronyms, which can inhibit participation. When used by others, explains the meaning • Paces the hearing, taking account of the child's stage of development, understanding, level of distress and attention span • Helps create a positive tone at the hearing through own verbal and non-verbal contributions, avoiding lecturing, threatening or mentoring • Demonstrates sensitivity in situations where there is a high level of emotion, such as stress, distress, anger or conflict • Gives verbal decisions and reasons

	using clear and concise language so that the family understand them
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Chairing members

<p>3 Communicate effectively and purposefully</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Explains any relevant legal or procedural issues to the child and family in language they can understand • Is able to explain the grounds for referral to the child and relevant persons in language they can understand • Seeks clarity that the grounds have been understood and provides the child or relevant persons with the opportunity to accept or deny them • Explains the purpose of the hearing to the child and relevant persons clearly • Facilitates effective communication between the hearing members and everyone present • Gives own verbal decisions and reasons reflecting the content of the discussion. Uses clear and concise language • Gives the hearing's decisions and reasons using clear and concise language so that the family understand them • Ensures that the record of the hearing's decisions and reasons clearly and adequately reflects the verbal reasons.
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D Conduct of hearing

To ensure a fair and effective hearing

Each member of the hearing

<p>1 Conduct themselves in a manner that establishes and maintains the independence and authority of the hearing</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Arrives in sufficient time to have an adequate pre-hearing planning discussion • Recognises and discloses any potential conflict of interest • Anticipates possible difficulties that may arise in the hearing and devises ways of dealing with them • Behaves in a measured, calm and non-confrontational manner • Appropriately assists the chairing member in ensuring that all legal procedures have been carried out • Gives support to the other panel members and works as a team member • Demonstrates respect and has an awareness of own style of working and its effect on the functioning of the team and others at the hearing
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Chairing members

<p>2 Manage the hearing in a manner that enables participation by all those present</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Sets the tone of the hearing to enable participation by all leading to an informed decision • Identifies who is present at the hearing so all parties know who is there and in what capacity • Considers who should be present for all or part of the hearing, as appropriate • Explains the purpose and procedures of the hearing and checks that it can be understood by all present • Ensures that each party has the opportunity to participate and express views • Ends the hearing appropriately
<p>3 Manage the hearing effectively</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Considers in advance how the hearing might be structured

	<ul style="list-style-type: none">• Consults with the other two panel members prior to start of the hearing on how hearing will be managed• Identifies areas of agreement and disagreement• Demonstrates respect and maintains a proper balance between formality and informality• Maintains firm and effective control• Maintains focus and direction while being open to the unexpected and using time productively• Manages situations where there is a high level of emotion such as stress, distress, anger or conflict.
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E Management of information

To ensure that all the relevant issues are addressed by obtaining and managing information

Each member of the hearing

1 Undertake necessary preparatory work for all cases	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Exhibits thorough knowledge of the reports • Identifies areas requiring clarification or investigation
2 Identify and assimilate relevant facts and information	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Identifies and uses only relevant facts and information in order to come to a decision • Considers the child in the context of his or her family, race, gender, sexuality, community, class, culture, religion, language and any disability
3 Ask questions concerning material Issues	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Makes appropriate use of the agenda identified at the start of the hearing • Asks questions which explore relevant information to inform the decision

Chairing members

4 Conduct the hearing to encompass all relevant issues	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Introduces the agenda and invites contributions from those present • Ensures all and, as far as possible, only relevant issues are addressed and considered • Facilitates participation in the proceedings of the other panel members and all present • Discloses material information from the reports which may influence the decision-making process, unless there has been a request for non-disclosure • Ensures that there is discussion about all other relevant issues by all parties.
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F Decision making

To ensure a proper assessment of the child's needs, identification of relevant resources, effective deliberation and reasoned decisions for future care of child.

Each member of the hearing

1 Take an active part in deliberations	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Uses reports and other information, including the child's plan, to identify key issues to raise in the hearing • Checks understanding and interpretation of key issues by asking questions and listening to responses • Expresses relevant views in discussion of issues • Considers relevant resources, clarifying policies and practices with the appropriate professionals • Considers risk factors relating to the child's situation, taking account of the child's views, race, language, culture, religion and any disability • Assesses whether there is sufficient information to make a decision and, if not, identify what extra is required and from whom
2 Take an active part in decision making	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Makes reasoned decisions based on the relevant legislation and own assessment of situation and child's needs • Articulates decision and reasons in clear and concise language the child and all participants can understand • Demonstrates that reasons for the decision provide sufficient justification for compulsory intervention

Chairing members

3 Involve all members in deliberations and decision making	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Summarises issues at appropriate points in the hearing • Ensures there is full discussion and that the child, any relevant person and all participants have an opportunity to express their views and that they are considered • Establishes a structured decision making process • Ensures decisions are given in clear and concise language with robust
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	and fully justified reasons, including any minority decision and reasons
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G Protecting Rights

To ensure that children's hearings are compliant with the European Convention on Human Rights, the United Nations Convention on the Rights of the Child and any other relevant legislation

Each member of the hearing

<p>1 Understand the need to ensure the hearing is fair, transparent and proportionate</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Is able to follow correct procedure throughout hearing • Ensures at the outset that everyone is aware of their rights in the process • Checks all participants have received all the relevant materials • Gives equal opportunity to all participants to express views • Demonstrates ability to ask difficult questions and deal with sensitive issues • Ensures all decision making takes place in front of all parties • Understands decisions should be proportionate and fully justified
<p>2 Understand the rights of everyone involved to have their views heard</p> <p><i>** cf B 2 third bullet point</i></p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Invites contributions for consideration • Recognises that the child and relevant persons have a right and obligation to attend unless formally dispensed with under the legal criteria • Recognises that the child has the right not to express a view • Considers different means of seeking the child's views, including making use of the "All about Me" documents and/or excluding certain people from part or parts of the hearing • Understands the need to protect rights and enable participation where there is a lack of capacity to understand and participate
<p>3 Understand the responsibility not to Intervene without justification</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Considers options including voluntary support • Demonstrates awareness of potential

	<p>impact of intervention on a child's and family's lives</p> <ul style="list-style-type: none"> • Shows awareness of a child's rights to family life under the relevant legislation and conventions • Considers, where family life is being disrupted, when rights to continuing family links are appropriate • Gives fully reasons and justified reasons
<p>4 Understand rights in the context of children's hearings</p>	<p><i>Performance indicators:</i></p> <ul style="list-style-type: none"> • Is aware that hearings are child focussed • Understands hearings should enable the participation of the child and relevant persons • Shows awareness of diversity issues • Demonstrates up to date knowledge of rights issues • Is able to deal with a human rights issue should it arise during the hearing • Shows that while recognising the rights of parents, these may be superseded by the primacy of the rights of the child • Demonstrates ability to clearly explain rights at the end of the hearing

Appendix 3

The Blueprint for the Processing of Children's Hearing Cases

The Blueprint for the Processing of Children's Hearings Cases lays down inter-agency codes of practice. It outlines the following pre-requisites for the delivery of a high quality service:

- Minimal delay
- Effective communication with children and families
- Participation of children in hearings
- Inter agency co-operation
- Facilities that meet the needs of all service users

Stage 1: incident to receipt of referral by reporter

Code of practice – Criteria for referral

1. Following consultation with other agencies SCRA will issue up to date guidance on referral criteria and on what information is needed when a child is referred to the reporter.
2. Each agency will implement mechanisms to promote compliance with guidance on criteria for the referral of a child to the reporter.
3. In given circumstances and in keeping with the agreed joint policy the police will consider issuing a warning instead of referring a child to the reporter.
4. Agencies will operate a system that allows for prompt and direct referral to the reporter.

Code of practice – The referral process

1. Each agency will have clear arrangements in place for the referral of a child to the reporter.
2. Any decision to refer a child to the reporter will be implemented with the minimum of delay.
3. Agencies' internal administration system will minimise delays in the referral process.
4. The police will report incidents to the reporter with minimum delay.
5. Police reports will be in a nationally agreed format.

6. In jointly reported cases the police will operate procedures to ensure simultaneous delivery of referrals to the procurator fiscal and the reporter.
7. Procurator fiscals and reporters will liaise regularly at local and national level to ensure co operation over children's cases.
8. Education departments will operate clear and consistent policies that allow schools to refer children directly to the reporter.
9. In child protection cases the minutes of case conferences will record explicitly whether or not a decision has been taken to refer a child to the reporter and any decision to refer a child to the reporter will be implemented by the named person with the minimum of delay.
10. Any individual or agency who may decide to refer a child to the reporter contrary to a child protection case conference decision should inform the case worker direct.
11. Health Boards and Trusts will ensure that SCRA guidance about referral criteria and the legal framework is disseminated to all the relevant health professionals through both managerial and professional structures.
12. Police and education departments will make referrals to the reporter as and when they arise rather than in periodic batches.

Stage 2: Receipt of referral to reporter's decision

Code of practice – Report requests

1. In keeping with SCRA guidance on the level of investigation required on receipt of a referral, reporters will request reports from agencies where essential for effective decision making.
2. Guidance between SCRA and ADSW will distinguish between the range and extent of information expected of Initial Enquiry Reports, Initial Assessment Reports, Social Background Reports and Integrated Assessment Reports.
3. SCRA will issue clear guidance to staff on the recording of information acquired by telephone and on the status of such information.

Code of practice –Timescales for the return of reports

1. In every request to another agency for a report or information the reporter will specify a date for the return of the report or information.
2. Report providers will give early notice to the reporter of any reasons why a report cannot be submitted on time.

3. Individual agencies will take responsibility for complying with agreed timescales and monitoring of delays.
4. Education services will have in place systems for the provision of written information to the reporter throughout the year.
5. In accordance with the nationally agreed protocol health services will have in place clear arrangements for the provision of reports about children to the reporter.

Code of practice – The Views of children

Social work departments will ensure that the views of children are sought and included in social background reports, integrated assessment reports and reports for hearings.

Code of practice – The reporter's decision

The reporter will make a decision about a referral with the minimum of delay.

Stage 3: Reporter's decision to initial hearing

Code of practice – The scheduling of hearings

The reporter will take full account of family circumstances and commitments when arranging a children's hearing.

Code of practice – Notice of children's hearings

1. The reporter will give as much notice as possible of a hearing date to all those expected to attend.
2. Reporters will provide children with written information about children's hearings.
3. Social work departments/local authority will ensure that children and families are given sufficient information in advance of their hearing to enable them to participate fully in the process.
4. Each agency will inform the reporter of changes of address or other family circumstances that may become known to them in advance of the children's hearing.

Stage 4: Initial hearing to disposal

Code of practice – Accommodation for hearings

SCRA will provide accommodation for hearings that complies with its stated property standards.

Code of practice – Punctuality of hearings

1. In the course of hearing sessions panel members and other will take account of the impact of delay on families in attendance at the hearings centre who are kept waiting beyond their scheduled time.
2. When hearing sessions are running behind schedule, SCRA staff will keep families informed of how long the delays are likely to last.

Code of practice – Avoidance of unnecessary continuations or deferred hearings

1. Whenever possible, the initial hearing will be provided with sufficient relevant information to allow full consideration of the case.
2. Agencies will ensure that they provide appropriate representation to allow full discussion of the case.
3. Education departments will provide a service for attendance at hearings outwith school term where considered necessary by the reporter.
4. The social work department /local authority will be represented at all hearings by the caseworker or appropriate substitute.
5. In making recommendations for disposal, case workers will provide as much detail as possible about relevant options including residential placements.
6. Wherever possible, the reporter will schedule a date for a continued or deferred hearing at the end of the current hearing.

Code of practice – Safeguarders

1. In stating their reasons for appointing a safeguarder, panel members will specify as clearly as possible those aspects of the case that they wish the safeguarder to investigate.
2. A date for the submission of the safeguarder's report will be specified on appointment (within 35 Days).
3. If the safeguarder is unable to provide a report within the timescale, the safeguarder must submit an interim report and if requesting additional time, explain why he/she needs it.
4. Children 1st will operate procedures to ensure that safeguarders are allocated with a minimum of delay.
5. Reporters will ensure that safeguarders receive case papers with the minimum of delay.
6. Reporters will provide safeguarders with a list of relevant contact addresses and telephone numbers, where available.

7. Children 1st will review their safeguarder panel regularly to ensure that adequate numbers of safeguarders are available to meet demand.
8. Safeguarders will submit their report with the minimum of delay.
9. Safeguarders should attend children's hearings to facilitate full discussion of children's cases.

Code of practice – Reports from mental health professionals

1. In planning and resourcing of children's services, Health Boards and Trusts will take account of the role of all health professionals, but particularly those working in child and adolescent mental health services, in producing reports for the reporter and for children's hearings.
2. SCRA and CHS will ensure that reporters and panel members receive training on the appropriateness on requesting reports from child and adolescent mental health professionals as a contribution to their decision making.

Code of practice – Cases referred for proof

1. When a case is referred for proof reporters will provide families with appropriate written information about going to court, obtaining legal advice and where appropriate, applying for legal aid.
2. Liaison will take place between reporters and the Scottish Court Service to avoid delay in scheduling of children's cases.
3. The reporter will give all those having a right, or required to attend a proof hearing as much notice as possible of the court date.
4. Efforts will be made to avoid court adjournments and to ensure that cases go ahead on the scheduled date.

Code of practice – Disposals

1. Written information of the outcome of a hearing, together with a copy of the reasons for the decision, will be sent to the child and family with the minimum of delay.
2. Supervision requirements/compulsory supervision orders will be implemented with the minimum of delay.

Appendix 4

NATIONAL STANDARDS FOR YOUTH JUSTICE PROVISION IN SCOTLAND

INTRODUCTION

These Standards are intended to update National Standards for Scotland's Youth Justice Services (2002). The standards form a baseline for the National Youth Justice Practice Guidance and should be read in conjunction with the relative sections of the Practice Guidance. The National Youth Justice Practice Guidance is aimed at all professionals who work with young people involved in offending behaviour and it offers information, advice and practical assistance in best practice.

The recommended Standards are a benchmark against which managers and practitioners can assess the local delivery of services for young people who offend and identify staff training and support needs. The Standards also aim to provide consistency in how youth justice should be delivered nationally. The Standards should be read in conjunction with the National Outcomes and Standards for Social Work in the Criminal Justice Systems.

Objectives of Youth Justice Provision in Scotland aims to:

- provide quality youth justice processes and practice
- provide an appropriate range and availability of interventions for children and young people involved in offending behaviour
- promote early and effective intervention
- ease the transition between the children's hearing and adult criminal justice systems
- ensure that secure accommodation and detention is used only when it is the most appropriate disposal and that consideration has been given to alternatives
- improve information and assistance provided in victims of youth offending and local communities

- provide strategic direction and co-ordination of multi-disciplinary services for children and young people who offend through locality planning and performance improvements.

It should be noted that youth justice practice in the UK and Scotland has been criticised for variation in decision-making and for a lack of a child rights approach by UNCRC (1997, 2002, and 2007). International and European guidance demand a child centred approach for young people up to the age of 18 years who are involved in criminal behaviour.

Getting it Right for Every Child (GIRFEC)

GIRFEC is the Scottish Government's strategic vision for all services which are delivered to, or which affect children and focuses on improving outcomes by placing the child on the centre of thinking, planning and action. Interventions for children and young people involved in offending behaviour should be underpinned by the principles of GIRFEC and decisions made on the basis of which provision can best meet individual needs.

Roles and Responsibilities

- when two or more agencies need to work together to provide help to a child or young person and their family, a lead professional should be identified to co-ordinate that help. The lead professional will have a responsibility to co-ordinate and sustain a network of supports and activities designed to positively contribute to the functioning and wellbeing of the child or young person, and to hold to account those who are identified to provide necessary interventions.
- partnership working should be underpinned by the GIRFEC principles which require that all services for children and young people – social work, health, education, police, housing and third sector – adapt and streamline their system and practices to work together better to support children and young people through information sharing and co-ordination.

Preventing Offending by Young People: A Framework for Action (the Framework)

The Framework outlines a shared version of what national and local agencies working with children and young people who offend, or who are at risk offending, should do to prevent, divert, manage and change that behaviour. The Framework focuses on the needs of 8-16 year olds but also covers prevention with younger children as well as young people, and transitional support in to the adult system up to 21 years. The Framework also notes that GIRFEC principles should guide and underpin the work of all agencies working with children and young people involved in offending behaviour.

There are 5 strands to the Framework:

- prevention
- early and effective intervention
- managing high risk
- victims and community confidence, and
- planning and performance improvement

The Planning and Performance Improvement Framework (PPIF) provides a voluntary framework for management information to help local areas measure, at a strategic level, how well they are achieving the aims of the Framework.

The PPIF is a voluntary framework and it is important to stress that local authorities and their partners will not be held to account nor asked to report to the Scottish Government on their performance against the PPIF.

Standards and Objectives

The following Standards are those recommended by the Scottish Government and the National Youth Justice Advisory Group, however, reference should be made to local policies and practice.

Objective 1: Provide quality youth justice processes and practice

If a sustainable reduction in offending and reduced use of secure accommodation and detention is to be achieved, the assessment of young people who offend and the quality of reports provided to children's reporters, children's hearings, procurators fiscal and criminal courts, must be consistent across Scotland.

Comprehensive assessments and multi-disciplinary Single Plans for children and young people involved in offending behaviour should be guided by the principles of GIRFEC. This is applicable to all reports and effective planned interventions for young people up to the age of 18 years involved in children's hearings and/or criminal courts. The Single Plan should directly address assessed needs and risks including criminogenic needs, and provide immediate and longer term objectives, tasks and timescales, and the views of the child or young person.

Standards for the quality of youth justice processes and practice:

- children and young people involved in offending behaviour should be supported within their own families and communities whenever realistic and possible.
- youth justice process and practice in Scotland should seek to divert children and young people from the adult criminal justice system. Where this is not an option, community disposals appropriate to age, developmental stage and seriousness of offence should be considered.
- every young person whether referred to the reporter or to the procurator fiscal on offence grounds, should have an initial assessment of their offending behaviour carried out by or on behalf of local authority social work services.
- every young person referred to a children's hearing or court on offence grounds should have a comprehensive assessment guided by GIRFEC principles, delivered on time, and with the local; professional in attendance at the hearing..
- every young person referred to a hearing or court should have a Single Plan, developed from a comprehensive assessment of risks and needs based on appropriate standardised tools. The Single Plan should state the options for the programme of interventions, who will deliver them, lead professional arrangements, intensity of contact and supervision required, and risk management plan.

- the Single Plan should be reviewed and updated at intervals agreed between the lead professional and partner agencies, young person and relevant others, and where appropriate endorsed by children's hearings and/or court reviews.
- every comprehensive assessment should be completed using ASSET/YLS-CMI assessment and other specialist structured risk assessment tools where appropriate.

Objective 2: Provide an appropriate range and availability of interventions to address offending behaviour in children and young people.

Practitioners and managers with responsibility for the delivery of services for children and young people who offend in children's hearings and the criminal courts should be familiar with the principles of GIRFEC and reflect this in their practice.

An appropriate range of skills, programmes, interventions and models of practice should be available in localities to prevent, tackle and reduce offending behaviour in children and young people. Each local authority should have information on the patterns and types of youth offending behaviour in their localities to ensure there is an appropriate range of programmes available to address and reduce this behaviour, and to identify successful outcome measures when commissioning or reviewing programmes.

Programmes of supervision or intervention should be based on a comprehensive assessment of the child or young person's offending behaviour and their wider social needs, and the underlying reasons for their behaviour.

Standards for the range and availability of interventions:

- the local authority should have access to a continuum of community based interventions and programmes to address the seriousness, persistence and patterns of youth offending as identified by local data on youth crimes.
- the local authority should ensure that programmes of supervision and intervention are based on a comprehensive assessment of the child or young person's offending behaviour and wider social needs.

- the local authority should ensure that intervention and programmes recommended in the Single Plan submitted to children's hearings and/or criminal courts are available for that young person and their family timeously and appropriately.
- the local authority should implement every compulsory disposal made by a children's hearing (subject to the discretion available to the chief Social Work Officer in respect of secure authorisation) and by a criminal court.

Objective 3: To promote early and effective intervention

Early intervention is defined as activity aimed at halting the development of a problem which is already evident. It is targeted assistance for vulnerability towards offending and other problems.

GIRFEC emphasises the ethos of Kilbrandon within current youth justice policy and its priorities underpin early and effective intervention:

- acting early on concerns or in response to a crisis to prevent escalation or deterioration.
- recognising pressures and building on strengths
- promoting resilience and
- plans and activities linked to outcomes.

The Scottish government Multi Agency Early and Effective Intervention

Implementation Guidance and Report indicates that a significant proportion of children and young people involved in offending behaviour do not require statutory involvement, and that their offending behaviour can be effectively addressed by one or more agency, on a voluntary basis, in line with GIRFEC.

Effective youth justice practice is also improved by taking the minimum time required to process formal referrals and implement disposals and interventions. Agreed agency standards and Code of Practice set by the Time Intervals Working Group, in respect of children and young people involved in the children's hearings system, guide this process. Children and young people involved in the adult criminal justice system and also subject to services governed by the National Objective for Social Work Services in the criminal justice system, regardless of whether or not they are also involve in the children's hearings system.

Standards to promote early and effective intervention:

- the local authority should have in place local multi-agency early and effective processes which will identify, support and improve outcomes for children and young people who have started to offend. Relevant partner agencies should include police, social work, education, health, community learning and the third sector, in conjunction with the local children's reporter.
- decisions made in respect of children and young people who have been charged with an offence should be appropriate, proportionate and timely, and should be based on the principles of minimum intervention and diversion.
- children and young people should be referred to the children's reporter only when the seriousness of the offence or associated concerns suggests that statutory involvement may be required.
- the EEI co-ordinator should be informed directly when a child or young person subject to a compulsory supervision order offends. The co-ordinator should pass the information onto the lead professional. EEI supports for children and young people on supervision for non offence grounds should be considered.
- the local authority should implement all compulsory supervision orders and/or criminal court disposals within 5 working days of issue.

Objective 4: To ease the transition between Children's Hearings and adult Criminal Justice Systems

The seriousness of an offence and whether a young person is currently subject to a compulsory supervision order will influence the decision to deal with the offence through the children's hearings system or the adult criminal justice system. Most young people who commit crimes however, are regarded as adults in terms of Scottish legislation which places them within the adult system with little allowance for their age or stage of maturity or development. There is a tension in this as the UN Convention on the Rights of a Child (UNCRC) defines a child as a person of up to 18 years and that their offending behaviour should be managed within a welfare based system such as the children's hearings system. The importance of the UNCRC has been recognised by the European Court of Human Rights (ECHR) and there is therefore potential for a young person, under 18 years and dealt with in the adult

criminal courts, to claim that their right to a fair trial was breached under article 6 of the ECHR.

Young people subject to a compulsory supervision order at their school leaving date and those previously looked after and accommodated, are also eligible for throughcare and aftercare assistance within the Children's (Scotland) Act 1995 (C(S)A 1995), regardless of whether or not they are also involved in the adult Criminal Justice System.

Standards for the transition between Children's Hearings and adult Criminal Justice Systems:

- the local authority should promote the use of legislation which allows young people aged 16 and 17 years involved in offending behaviour, to be dealt with by the children's hearings system, so long as it is in the young person's best interests and does not compromise public safety.
- the local authority should have in place diversion from prosecution schemes for 16 to 18 year olds to enable the procurator fiscal to consider diversion as an alternative to prosecution in the adult courts.
- targeted and intensive support should be provided for those young people leaving care and for vulnerable young people involved in offending behaviour, at the intersection between children's and adult systems.

Objective 5: To ensure that secure care and detention is used only when it is the most appropriate disposal, and that consideration have been given to alternatives

There are a small number of highly vulnerable children and young people whose risks and needs can only be managed, as a last resort, within the structured and controlled setting of secure care, but there is also a recognition that some may be in secure care placements because of a lack of suitable alternative provision.

The Scottish Government's vision is that no children should be in secure care and it is committed to driving down the need for secure care by supporting partners to build robust and credible alternatives. A Scottish Executive study into secure care and

community alternatives in 2006 concluded that high risk young people could be managed in the community with the provision of appropriate intensive community support services.

The aim of the Securing Our Futures Initiative (SOFI) was to have fewer children in secure care by managing high risk young people safely in their communities. SOFI concluded that young people in secure care “are, on every measure, the most vulnerable group in society”. SOFI also noted that outcomes for young people leaving secure care were poor and that the development of a full range of alternatives was required to divert high risk young people. Many 16 and 17 year olds entering custody are likely to be troubled, disadvantaged and vulnerable and Scottish Government statistics show that a high percentage of 16 and 17 year olds sentenced to a Young Offenders Institution (YOI) are reconvicted within two years. GIRFEC principles should apply to all work with high risk young people under 18 years subject to secure care, detention or alternatives, whether or not they are involved in the children’s hearings system.

Standards for secure care, detention and alternatives:

- the local authority should have robust and transparent procedures governing the move into, through and out of secure care and every decision should comply with current legislation and regulations governing the use of secure care.
- a children’s hearing and/or the local authority Chief Social Work Officer must be satisfied that all alternatives to secure care have been fully explained prior to granting authorisation of secure care in respect of a young person.
- secure care should only be used to provide a minimum period of such accommodation required for a young person, and should be part of a comprehensive and longer term risk management plan.
- all placements in secure care or Young Offenders Institution (YOI) should be focused regardless of the length of stay and young people should have access to a range of services including health, education, programmes of therapeutic care, and direct intervention to challenge offending behaviour.
- all young people in secure care and YOI should have an identified lead professional from within their home authority with whom the secure

establishment/YOI maintains regular contact and who is responsible for developing the Single Plan for the young person.

- reviews should take place no less than monthly by the secure establishment/YOI, the lead professional, the young person and their parents/carer/other relevant person.
- all young people should have a throughcare and aftercare plan covering a period of at least 3 months following the day of departure from secure care/YOI, to support them in the community as “children in need” under C(S)A 1995. This should include: strategies to maintain community stability; appropriate and stable accommodation; education and training; health and mental health; substance misuse; pro-social activities and relationships; support for families/carers and longer term community supports.
- the young person’s lead professional should meet the young person within 1 working day of their release from secure care/YOI and meet regularly following this.
- the throughcare and aftercare plan should be reviewed within 3 months and regularly following this whilst the young person is subject to a compulsory order.
- the local authority should have in place credible alternatives to secure care and custody which include 5 essential components: stable and sustainable accommodation; a range of structural programmes and interventions which challenge offending behaviour and provide therapeutic support; full time education and training opportunities; 24/7 access to crisis support, respite and “time out” options and relapse prevention.

Objective 6: To improve information and assistance provided to victims of youth offending and local communities

The Scottish Government supports everyone’s right to feel safe in their own homes and communities. This necessitates communities working with local partners, supporting community events and acknowledging the positive contributions that children and young people can make to their communities. They are committed to:

- promote positive messages about young people and support engagement with communities, including opportunities for intergenerational communication
- develop an evidence base around effective interventions with young victims

- work as partners to demonstrate the benefits of adopting a restorative approach to youth offending
- address issues around media perceptions of young people.

In May 2011 the EU published a package of measures aimed at reinforcing rights of victims and minimum standards on rights, support and protection.

It is recognised that many victims of crime can be as a result of youth offending and the children's hearings system and the Scottish Children's Reported Administration have already made a similar commitment in their 'Strategy for Victims':

- recognition of the importance of victims of crime
- recognition that victims have a legitimate interest in their cases
- commitment to provide explanations for victims about their processes
- commitment to offer victims information on outcomes
- recognition that victims should be enabled to have a voice

Standards for the information and assistance provided to victims and local communities

- every victim should receive information about the process for dealing with the young person who has committed an offence against them and the outcome.
- every victim of a young person referred to the reporter or court on offence grounds will have the opportunity to engage in a mediation, reparation or restorative scheme, as appropriate.
- the local authority should collate and publish annual performance information about the volume, nature and persistence of offences committed by young people, and local strategies and services designed to respond to offending by young people.

Objective 7: Provide strategic direction and co-ordination of multi-disciplinary services for children and young people who offend through locality planning and performance improvement

Effective strategies process characterised by co-ordinated action by Youth Justice service providers is required if GIRFEC, European and International Standards are to be achieved.

The Planning Performance Improvement Framework (PPIF) (2010) provides a voluntary framework for management information to assist local areas in their work to address offending by young people. The PPIF is divided into four areas to reflect the four key themes in the Preventing Offending by Young People: A Framework for Action.

Performance indicators are divided into:

- intermediate outcome indicators which measure the benefits and changes resulting from the activities of an organisation or service over the medium term;
- local activity indicators which are locally determined approaches and will inform how well local services are achieving the intermediate outcomes; and inputs which describe the resources required locally for the management and delivery of services and how they are used. Inputs enable the local activities to be delivered, which in turn contribute to the intermediate outcomes.

Standards for locality planning and performance improvement

Partnership Working

- the local authority should have a multi-agency Youth Justice Strategy Group which will plan, co-ordinate and evaluation the development of local services dealing with young people who offend in accordance with Preventing Offending by Youth People: A Framework for Action with GIRFEC as the guiding principle.
- at an operational level, the local authority should have effective liaison arrangements in place with relevant agencies if services are not located within a dedicated youth justice team

Self Assessment

The local authority should consider the use of the PPIF self assessment tool to:

- provide robust management information to support local areas understanding, reflection and improvement in performance.

- improve the quality and availability of local and national information relevant to offending by children and young people.
- provide a mechanism for local areas to report against their Single Outcome Agreements.
- identify unmet need and gaps in services.

Practice Monitoring and Evaluation

- the local authority should have in place a routine system to monitor and review children and young people involved in offending behaviour, both individually and in aggregate form, which should be used to provide data for service planning, performance delivery and development of service pathways.
- practitioners and managers should be committed to gathering and using data at all levels within an organisation.
- agency monitoring should be integral to the design of planned interventions.
- Interventions should be outcome focussed, evidence change against stated aims and objectives and impact on perceived needs and risks.
- evaluation of services should include both hard and soft information.

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