

SCRA response to the Scottish Government's consultation

Background

The Children's Hearings System is Scotland's distinct system of child protection and youth justice. Among its fundamental principles are:

- whether concerns relate to their welfare or behaviour, the needs of children or young people in trouble should be met through a single holistic and integrated system
- a preventative approach, involving early identification and diagnosis of problems, is essential
- the welfare of the child remains at the centre of all decision making and the child's best interests are paramount throughout
- the child's engagement and participation is crucial to good decision making

SCRA operates the Reporter service which sits at the heart of the system. SCRA employs Children's Reporters who are located throughout Scotland, working in close partnership with other professionals such as social work, education, the police, the health service and the courts system.

SCRA's vision is that vulnerable children and young people in Scotland are safe, protected and offered positive futures. We will seek to achieve this by adhering to the following key values:

- The voice of the child must be heard.
- Our hopes and dreams for the children of Scotland are what unite us.
- Children and young people's experiences and opinions guide us.
- We are approachable and open.
- We bring the best of the past with us into the future to meet new challenges.

Response

SCRA welcomes the consultation on a Scotland-wide Data Linkage Framework and is generally supportive of the Scottish Government's proposals. We agree that a more structured approach to data sharing could have benefits for the participating organisations as well as more broadly by enabling more robustly evidence-based policy. However, we also note that the consultation paper is very high level and we would need to see a lot more detail before being able to come to a conclusion about involvement. The specific questions posed in the consultation paper are addressed below.

Section 1 - Benefits of data linkage

"Are there any benefits of data linkage for statistical and research purposes that are not sufficiently described here?"



An additional and clearly identifiable benefit would be the opportunity for an increased degree of control to be exerted over the quality and consistency of data.

Section 2 - Challenges and barriers

“Are there challenges or barriers preventing more effective and efficient data linkages for statistical and research purposes taking place that are not sufficiently described here?”

We consider that there are a number of additional challenges beyond those outlined in the discussion paper. Depending on the detail of what is actually envisaged, capacity of individual organisations may be an issue, as will the capacity and compatibility of systems. For example, will data be shared via live links or by way of regular “data dumps”? This will have an impact on whether smaller organisations will be able to take part.

We also consider that organisations’ statutory powers may represent a challenge, as they set out the legal basis for sharing of information. SCRA has particularly long-standing concerns about the limitations on our ability to share information except where an express or implied statutory power can be identified. In order to be able to sign up for the data linkage framework we would need to be able to identify such a power.

Section 3a - Guiding principles

“Are the guiding principles sufficient and appropriate?”

In the introduction to the section on “Guiding Principles”, we would suggest that there needs to be mention of other relevant legislation beyond the Human Rights Act and Data Protection Act. From SCRA’s perspective, the Children (Scotland) Act 1995 and (when it comes into force) the Children’s Hearings (Scotland) Act 2011 would be of particular relevance.

Principle 5 refers to linkages resulting in commercial gain. We are concerned by this reference. SCRA would not be willing to share information in such circumstances and we would not sign up to any framework that might result in the data we hold on vulnerable children and families being used for commercial purposes. We would require there to be a specific principle guaranteeing to participating organisations that shared data will not be utilised in this way.

In relation to Principle 20, obtaining explicit consent from all individuals on whom we hold information is not possible or appropriate. SCRA collects and holds information in performance of its statutory functions and makes clear in all communications and on our website the purposes that information will be used for. Please see our comment above on legal powers to share information.

The statement of principles should also include explicit reference to research ethics and in particular the well-established principle that research should “do no harm”.

Section 3c – Privacy Advisory Service

“Are the objectives for a Privacy Advisory Service set out in section 3c the right ones?”

We are supportive of the objectives for a Privacy Advisory Service but see no reason to separate the it from the National Data Linkage Centre (NDLC). Issues of privacy should sit at the heart of the Framework’s operation and rather than hiving it off to a separate body, the NDLC seems the best place for it to be sited to ensure that privacy is given the level of consideration that it requires in every aspect of decision making around data sharing.

Section 3d – National Data Linkage Centre



“Are the functions that will be led by the National Data Linkage Centre set out in section 3d the right ones?”

There are particular challenges for SCRA when partner agencies are making use of our data, as the Children's Hearings System is very much a non-linear system and the data can be difficult to interpret for those who don't make use of it on a regular basis. One of the benefits that we see to the National Data Linkage Centre is that there is an opportunity for engagement with individuals there to help develop a better understanding of Hearings System data. We consider that this is a role that the Centre could fulfil in relation to helping promote a better understanding of data sets. We would also see the Centre having a role in terms of quality assurance of data and the establishment and monitoring of standards.

Conclusion

We are supportive of the approach taken by the Scottish Government and look forward to further discussions on this subject as the proposals are developed.

SCRA
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