



Phase two consultation report to the Hearings System Working Group

January 2023.

Introduction

In 2022 Children's Hearings Scotland (CHS) on behalf of our volunteers and staff community submitted a response to the Hearing System Working Group's (HSWG) issue list. Within the response we highlighted that a further period of consultation would be undertaken to enable more focussed discussion around key themes that were felt to require further exploration.

We committed to provide the HSWG with an update on these issues. This paper outlines a summary of feedback as it relates to the HSWG issues list. It is intended to provide members of the HSWG with an insight into the views of those involved in delivering the current tribunal system and inform HSWG members thinking when making recommendations for change.

The additional comments and feedback received from the community, which is not included in this report will be used to help to inform our ongoing review of our current operating model and consider how we can enhance our service now, and help us in preparation for recommendations that arise from the work of the HSWG when their report is published in 2023.

Approach

As outlined in our first submission, a project team approach was utilised to develop the consultation approaches and we retained [The Lens Perspectives Agency](#). The Lens team have experience in working with people in many organisations to support change and develop and generate innovation. Consultation and engagement are the foundations of all programmes led by The Lens.

The consultation process was offered via face to face and virtual sessions and focussed upon three themes (see below). Contributions were from volunteers, CHS staff, members of the CHS Clerking service¹ and staff from CHS Learning Academy².

The Phase 2 programme was a deeper consultation on key themes. The sessions were designed to allow more time for people to re-connect with the vision for change; think about the future role of the tribunal member; explore key questions; share their own experiences; listen to other people's views; generate solutions and record different and divergent views.

The Session Design included:

- Incorporating the voice of the child.
- Overview of the hearing system working group.
- Improving children's lives as an overall outcome.
- Time for participants to think alone.
- Opportunities to talk to others.
- Permission – to think differently, to listen, to be bold.
- Working in groups – answering the key questions.

¹ The CHS Clerking service is provided by Scottish Local Authorities under a Memorandum of Understanding agreement. Some clerks provide support exclusively to their local panel communities, some have CHS clerk functions as part of their wider LA corporate services remit.

² CHS Learning Academy deliver all pre and post approval training for panel members, as well as delivery of online and face to face CPD training to volunteers and staff. The service is contracted to West Lothian College.



- Creative options for developing solutions & prompts.
- Opportunity to disagree – record the variance in views.
- Feedback to the whole group.

Summary of Phase Two Findings.

The three thematic questions to focus the discussion are outlined below with the summary of the findings from the all the consultation sessions undertaken. In addition, there was feedback about the current system operation that will be addressed by National Convenor/CEO of CHS via the Senior Management Team as part of their commitment and plans to continue to improve the current service, and develop a model to meet the recommendations of the HSWG final recommendations.

Recruiting, supporting, and retaining the volunteer community and their commitment to the Children’s Hearings System were recurring themes across all three questions. An outline of the views of those who contributed, are summarised below.

Commitment

It is important to highlight that throughout phase one and two of the consultation it is evident how committed the panel community are and that they take pride in the voluntary contribution made to the current system. There were many examples shared throughout the consultation programme.

All consultation questions produced a range of responses, and opinions. Within this document they have been summarised and where appropriate, been collated and recorded under common thematic sub headings below each question.

Q1. What is the role of the tribunal member in the future?

Skills and Motivation

In considering what should be expected of those in the role there were multiple calls for a much more trauma-informed community. There were also specific suggestions that panel members *“have values that match those of CHS”* and are *“all committed to professional development.”* There was a sense across the board that they should be *“viewed as professional volunteers”* with the related commitment that is required from panel members themselves and the support they need to fulfil the role.

There was a concern raised that some people were joining to gain experience for enhancing or to develop their future professional roles (for example Law/ Social Work Students) and as a result there should be an expectation that those volunteers should offer a minimum commitment of the time they should serve on panels to gain this and give something back.

It was also suggested that there should a time limited period of tenure for Panel Members, for example, 2 or 3 years with clear evidence of completion of core continuing professional development. This was also linked to other views on the rights, responsibilities, and accountabilities of panel members.

Purpose



The purpose of tribunal members came through very strongly and is best summarised by one subgroup's summary of their role which they viewed as *"making significant decisions on behalf of vulnerable children and families."* Many saw their primary role and focus to enable better outcomes for children and young people, now and in the future.

As with [Phase 1](#), the voice, wellbeing and welfare of the child was a priority with most groups starting with the child's view and the need for more listening, advocacy and improved processes to create better outcomes. Many felt that the role itself should not change but that the systems and processes should be changed to enable the role to be more effective.

All contributors stated that they wanted the role to make the experience for children and families more positive and effective; to hold up the Kilbrandon Principles, comply with the UNCRC³ and to Keep the Promise.

Many viewed the role of the panel was to deliver Children's Hearings where children & other key participants;

- Are supported to participate effectively
- Leave the hearing having understood what has just happened
- Understand how the decisions are going to affect them
- Know exactly what is expected of them before the next hearing

A central theme was that there should be a

"A whole system approach where panel members have disposals for both children, relevant persons and carers"

There was a clear input from contributors that a tribunal system going forward needed to make decisions and recommendations that impact on the underlying issues within a child/family's life, not solely the presenting behaviours. The tribunal should have a role in monitoring the impact of actions being taken to address the issues of concern. There was agreement that the tribunal role could not "fix" everything, but there should be a commitment from all involved to improve outcomes for the children and families for the better.

Composition

Most of the groups had ideas and improvements based on the current panel model. Some raised questions regarding whether this should exist in the future, reflecting the need for a transformational approach, such as other models, e.g., mental health tribunals. This was not a consistent theme across contributors.

For some contributors thinking about the future was difficult due to the challenges that exist in the current system. An example of this was the need for more diverse panel members. There was a range of views on whether it was necessary to continue to require a gender mix⁴, however there

³ UNCRC – United Nation Convention on the Rights of the Child.

⁴ There has been recent legislative change within the system that allows for the composition of single gender panels to convene and make decisions where a mixed gender panel cannot be convened; current practice (adopted during the covid pandemic and now considered common practice), is that this approach is the exception rather than the norm.



were various comments noting that there should be “*Tribunals with more diversity to reflect today’s society.*”

Continuity and user led panel meetings.

Participants felt continuity would help to build relationships with families and reduce the need to repeat difficult stories⁵. A more flexible delivery⁶ of a children’s hearing would enable families to take part more easily. There were numerous calls for hearings to be designed around the child; to be longer to allow children’s voices to be heard properly; and, to help children and young people feel that the tribunal members had the time and space to really listen to their views.

Relationship based discussions

The [Promise Report](#)⁷ outlines the importance of relationships within all aspects of the workforce, which includes the voluntary tribunal members. This was an area where there was a divergence between some members of the panel community.

Some participants recognised that there is a need to change and develop the current approach in how the system is delivered and could see the benefit and offer suggestions on how this could help improve the process. For example, tribunal members adopting a more participative/facilitative approach within panel discussions, or meeting with the child or young person prior to a hearing, ensuring they are comfortable with the process, etc.

Similarly, as outlined within the phase one report, there was also a view from some volunteers that developing a relational approach would diminish the independence of the tribunal member.

Agency of the tribunal members

The agency of the panel members to be more flexible and responsive to the individual needs of those subject of a hearing discussion was identified within the sessions. There was recognition that the role of a tribunal member could be more proactive and directive if they were being provided with relevant information to enable them to make decisions. Some suggestions to address this included.

- Adjourning for discussion prior to decision and reason (= less deferral).
- [Independent] Review of support plan if family are still in the system after a significant period, e.g., 4 years.
- Be more proactively challenging.
- Meetings to ascertain how local agencies / support are being utilised – common practices that can be shared across local authorities. [to encourage good, consistent practice and equality of support]
- *Better relationships with professionals - Hearings have right to be more prescriptive in what we want and expect to happen (“Right help at the right time” to avoid delays).*

⁵ [The Promise](#), Page 44.

⁶ [The Promise](#), Page 57.

⁷ [The Promise](#), Page 99.



Q2. What support will tribunal members need in a world where we keep The Promise?

Recruitment, Support and Retention

For the Volunteer community and the staff who support them this was seen as key to the success of the system. Issues around diversity, recruitment and retention were raised multiple times. Having people who fitted with CHS values and motivations to support children and families was key, as was the need to ensure that *“Tribunal members to be recruited more locally and reflect the community i.e., care experienced (and be passionate!)”*.

Some suggested that a commitment from Scottish Government to support and encourage employers to consider releasing employees for panel service similar to responding to the need for Jury service, and included the consideration of a “kitemark” or “Investors in People” type award for employers who comply. It was felt by some panel member that the training provided by CHS was “transferrable” to different work environments and as such this could be an attractive proposition for some employers.

Within sessions there was acknowledgment from attendees that the hearings that were being convened were becoming more complex and that there was a need for more *“specialist training to cope with the complexity.”* Also, that many courses needed to be identified as mandatory for panel members who wanted to remain active on the availability rota. The need for trauma awareness and understanding of the legal processes for young people who are in conflict with the law were areas of particular focus for contributors.

Training and Development

The majority of comments from tribunal members was that the training offered was of a high standard and valued by the community. The delivery of some courses via virtual platforms⁸ was not as well received and at times the volunteer’s anxiety around logging in and accessing electronic platforms⁹ was viewed as a barrier to course completion and their ability to learn effectively.

Attendees also highlighted that consistent and coherent wellbeing support delivered by CHS would be beneficial. Examples offered were peer support networks, a buddy system, more experiential (e.g. role play) training and structured post hearing supervision and/or mentoring.

Some contributors identified that as part of a tribunal members’ CPD there needed to be a “Feedback System and Performance Appraisal,” in the form of a rigorous approach identifying gaps and additional training and development and where necessary a development plan.

The need for more cross-discipline training for all involved in the current and future system – for example with social workers/advocates etc. were seen as being of benefit. It was noted that in some areas this does happen already, primarily led within local AST’s but was not a consistent approach across the wider CHS community as whole.

⁸ It was acknowledged in discussion that this approach had increased during the recent pandemic, but that there was a move to more face-to-face training offers becoming available.

⁹ This was also an issue within the virtual consultation sessions where, although there had been an offer within the booking instructions of pre session support to access the online platform prior to a consultation session, some volunteers still experienced difficulty on the day.



Specialist Support

Many contributors cited that the specialist nature of some referrals would benefit from trained tribunal members or independent subject experts, who would be part of the panel discussions and decision making. This theme overlapped with the question about specialist panels (see below), though were raised within this discussion too. By having access to experts, it was felt that the panel could be more confident in its decisions and approach. There was general consensus that building up relationships with experts would help to ensure that there is improved continuity and decision making.

Legislation

There was widespread recognition that as the panel member role is part of a bigger, complex system of service delivery and the support needed to perform the role well stretches beyond CHS itself. Primarily, and as outlined in phase one, this related to having more resources and earlier, effective help and support available for families, thus reducing the number of children and young people requiring a hearing. There was also recognition that systems and process needed to be more joined up and integrated to enable better outcomes for children and families.

There were a small number of suggestions relating specifically to legislative change, including: improving processes to implement current legislation, amending current legislation and a significant change in legislation.

Examples included streamlining the process for Permanence Orders; consideration of extending Interim Compulsory Supervision Orders from the current 21 to 44 days to provide more realistic timescales to enact plans/decisions. As outlined in the phase one submission there are strong views from the tribunal members that the current system of establishing grounds is traumatic to children and families and can inhibit the tribunal effecting a more relational approach in reaching decisions and recommendations.

Administration

A highly popular suggestion was around dedicated admin support for hearings. There was a lot of discussion around the onus on panel members to achieve what is needed in the time available and that with the technology they access to record decisions makes an already demanding task much harder. In particular respondents cited that the current system of 45 minutes discussion and 15 minute to record a decision was “ludicrously short”. There was general agreement that this impacts on the quality of hearings, and if the hearing runs over time, has an impact upon any hearing scheduled for the next slot. The expectation of three hearings per tribunal session was felt to be unrealistic.

As outlined in phase one, the need for “clear, concise child-focussed” panel reports which included a care plan was seen as a key change that would be of benefit to all involved in the decision making process.

Q3. How might specialist panels deliver better outcomes for children and young people?

The intent of the phase two consultation and the work undertaken within the introduction to each session was to “set the scene” by imagining a new model for the Children’s Hearing System.



Participants at times were challenged by this approach and in particular this question. As a result many struggled to “vision” a tribunal model that was different from the current system.

A very high number of comments within the sessions centred upon what specialist panels were, whether they were needed and, concerns about a negative impact on the Children’s Hearing System. Within the small break out groups (3 or 4 participants per group) some had questions, others were firm on their belief they should not be put in place. Throughout all sessions there was confusion about how a paid tribunal member system alongside a volunteer model could work in practice.

Volunteer panel members were primarily of the view that specialist panels, particularly where members of the tribunal were recruited and paid to make decisions would could be a “huge concern – potentially divisive” and lead to a “two tier system”. Others felt strongly that there should be no specialist panels and that all tribunal members should be trained to an appropriate level and skill to carry out the tribunal member task.

There were some respondents who were positive about a specialist system. They offered a view that the consideration of specialist hearings reflected the increasing complexity of hearings; that children and young people may feel more reassured that a tribunal member had particular knowledge or skills around their individual issues. Also that this approach had the potential to enable decisions made to be based on sound knowledge of the issue and how this could be addressed to effect a positive outcome, reduce drift and delay in the support of an individual child.

Conclusion

This document provides a summary of the phase two consultation, as outlined earlier many comments and observations shared by the CHS community relate to our current operating practice. There is a commitment from the National Convenor/CEO of CHS Scotland and the Senior Management Team to continue to engage with the wider community around the development areas identified and incorporate feedback into the organisational business plan and other business monitoring processes currently in place. We remain committed to supporting our community to continue to deliver the current tribunal system as effectively and seamlessly as we can, whilst we prepare for the recommendations from the HSWG.

Looking ahead, we are committed to playing our part in developing a new Children’s Hearing System. We look forward to developing, alongside colleagues within SCRA, Scottish Government and other stakeholders, an implementation plan based upon the HSWG’s findings when published.

23rd January 2023