



‘The Feedback Loop’

A Report by the National Convener on the implementation of
Compulsory Supervision Orders (under section 181 of the
Children’s Hearings (Scotland) Act 2011) for years 2016-17,
2017-18, 2018-19 and 2019-20

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Foreword

As we enter the most significant period in recent history to transform how Scotland looks after the infants, children and young people in its care, this report probably asks more questions than it answers.

This report fulfils the statutory obligation to report on the implementation of Compulsory Supervision Orders. More importantly, though, it offers an opportunity to reflect on the specific duties placed upon me as National Convener, including my role in the enforcement of orders by implementation authorities, and to begin to set a path to deliver it in future in a way that is most useful, meaningful, and best aligned to the recommendations of the Independent Care Review as they begin to be realised by the new implementation body, The Promise.

As such, I am open and honest about the fact that this format will be very much a temporary fixture in the life of this report. It represents a 'holding pattern' that ensures a report is actually published. It does not realise the original vision that lies behind the inclusion of the requirement for this report in the Children Hearings (Scotland) Act 2011 – to ensure the best outcomes for those infants, children and young people who come to hearings through the systematic reporting back to Panel Members on wellbeing and to use this to improve decision-making.

Making this vision a reality posed a significant challenge to the National Conveners that came before me. It is no less a challenge for me. I believe that the observations and conclusions of the Independent Care Review about changes needed in the data that we have in Scotland's care system, however, present a very real opportunity to make progress.

This report presents the current legislative context, gives an overview of the history of the development of the Feedback Loop report, and presents data about decisions made at children's hearings and notifications of breaches by implementation authorities. Finally it takes a forward look at the possible future developments.

I would like to thank the Scottish Children's Reporters Administration (SCRA) for providing the necessary data and for their assistance in the preparation of this report .

As the legislation requires, this report will be provided to all Panel Members following the presentation of the report to Parliament.

- Elliot Jackson, National Convener and CEO, Children's Hearings Scotland

Legislative Context

Section 181 of the Children's Hearings (Scotland) Act 2011 ('the 2011 Act') places a duty on the National Convener to prepare a report "about implementation of compulsory supervision orders" in Scotland as a whole and in each local authority area annually, as soon as practicable after the end of the financial year.

A copy of the report must be given to each member of the Children's Panel and Scottish Ministers must lay the report before the Scottish Parliament.

Past Developments of the Feedback Loop Report

Two Feedback Loop reports, covering the years 2014-15 and 2015-16, have been published before. That reports presented a range of data about children's hearings and the implementation of CSOs. This current report presents a smaller amount of more specific data than the previous report, focusing exclusively on decisions made in hearings and reported breaches of implementation of CSOs.

As my predecessor noted in the 2015-16 report, neither the National Convener nor Children's Hearings Scotland (CHS) collect or store information about children and young people, either on an individual or aggregate basis on the implementation of CSOs. This information is held and controlled by Local Authorities, who are responsible for implementing CSOs. Data on decisions made in hearings is held by the Scottish Children's Reporters Administration (SCRA). This distance from the data makes collection for the purposes of publication challenging for CHS. In addition, information on the wellbeing of children and young people is not collected in the same way across Scotland.

Over the last few years, some work has been progressed to try and achieve a consistent approach that allows for ease of collection, reporting and use, but this has had limited success.

The previous Feedback Loop report used September to August as its reporting year, in line with the data available from Local Authorities. This report uses financial years as specified in the 2011 Act.

Implementation of CSOs

If Children's Panel Members are satisfied that compulsory measures of supervision are necessary for a child's protection, guidance, treatment or control, a children's hearing may make a Compulsory Supervision Order (CSO).

The CSO, by including measures setting out what specific arrangements should be made, and by specifying an 'implementation authority' (the Local Authority in whose area the child predominantly resides or with whose area the child has the closes connection), places a duty on a Local Authority to take action.

Under section 144 of the 2011 Act, the implementation authority has a general duty to give effect to a CSO and also a duty to comply with any specific requirements imposed on it by the measures attached to a CSO (for example, a child is required to reside in a particular place or to undergo a specific assessment, or attend a particular school). The section states:

(1) The implementation authority must give effect to a compulsory supervision order.

(2) The implementation authority must in particular comply with any requirements imposed on it in relation to the child by the compulsory supervision order.

‘Implementation’ therefore concerns whether implementation authorities have carried out the actions required of them by measures in CSOs.

But the Feedback Loop was intended to touch on something wider – not only whether a CSO had been given effect by a Local Authority, but also what had been the impact of that on the lives of the children subject to them.

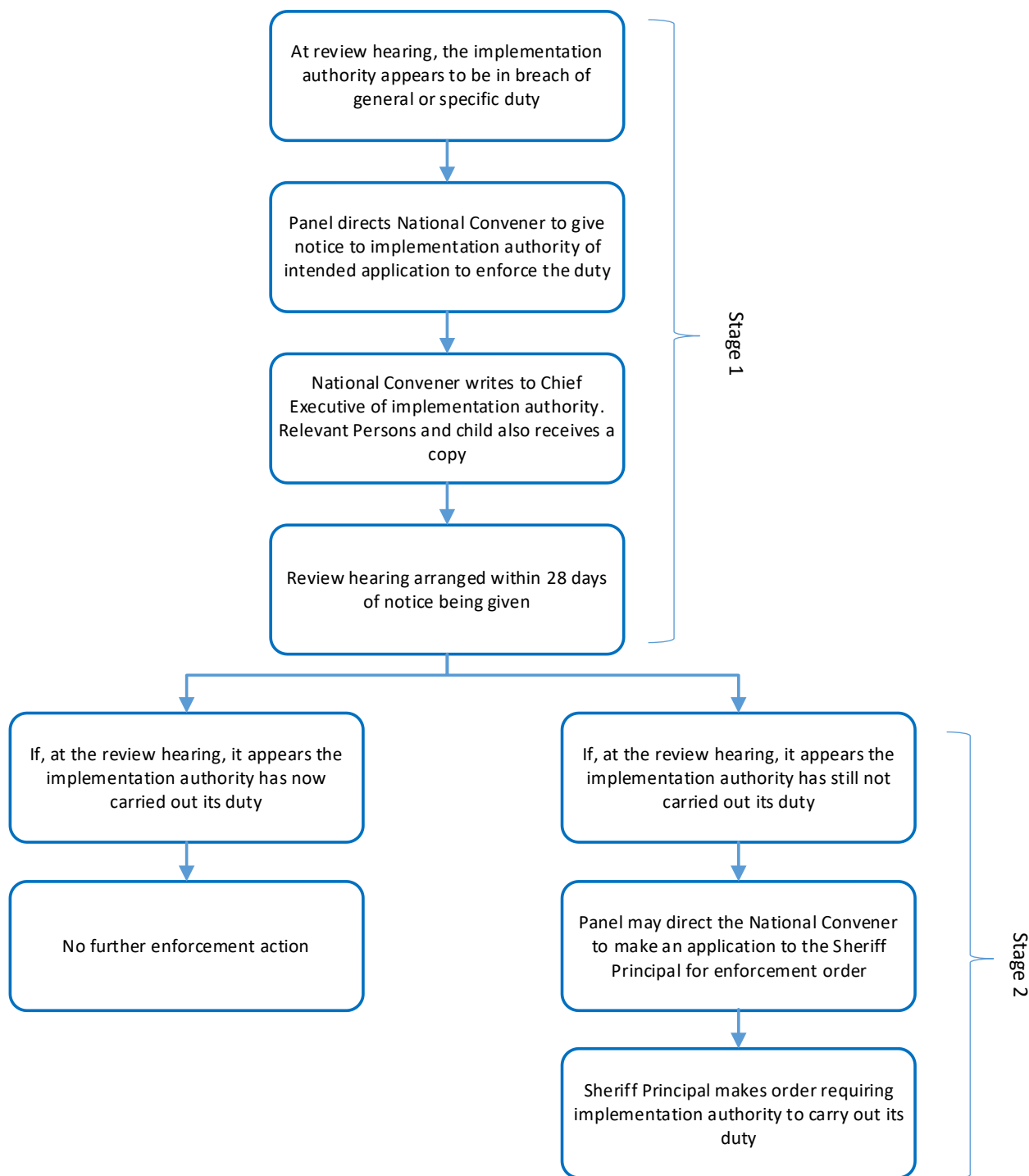
Implementation Breaches

It may become clear, for example at a review hearing, that something other than the measure of supervision directed at a hearing has happened. The implementation authority may have taken other action or taken no action at all. In these circumstances, a breach of the implementation duty may be considered to have taken place as the implementation authority has failed to carry out its duty, as described above. Section 146 of the 2011 Act allows a hearing to direct the National Convener to take action to enforce the authority’s duty.

Any implementation breach is potentially serious. It may indicate that an infant, child or young person is not receiving the support that a children’s hearing has decided is necessary in their best interests. It is important to remedy that breach.

A summary of the section 146 process for reporting and enforcement is given overleaf.

In addition to this reporting process, a children’s hearing and the National Convener also have powers to refer to Scottish Ministers instances of an education authority failing (under section 14(3) of the Education (Scotland) Act 1980 (c.44)) to provide education for children excluded from school. These referrals are made under section 127 of the 2011 Act and are also included in this report when they have taken place.



Implementation Breaches Reporting Process

Implementation Data

This report focuses on the implementation of decisions made in hearings by bringing together and providing information on three areas:

(1) A count of hearings in which particular decision types were made in a given year (1st April to 31st March) that place an implementation duty – through a CSO - on an implementation authority. The relevant hearings decisions are:

Decision Type	Description / Definition
CSO Continued	The hearing was satisfied that an existing CSO was still required and that no variation to any of the measures was needed.
CSO Continued & Varied	The hearing was satisfied that a CSO is still required but a change to the measures was needed.
CSO Interim Continuation	The hearing was satisfied that an existing CSO should remain in place short-term, until another decision can be made.
CSO Made	The hearing was satisfied that a CSO was necessary for the child's protection, treatment, guidance or control.
CSO Varied	The hearing was satisfied that an existing CSO was still required but the 'relevant period' remained unaltered.
IVCSO	The hearing was satisfied that a short term variation to an existing CSO was needed as a matter of urgency until another decision can be made.
ICSO Issued	The hearing was satisfied that circumstances warranted making a [short term] CSO as a matter of urgency.
ICSO Renewed	The hearing was satisfied that an existing [short term] CSO should be re-issued.

(2) The number and types of breaches of implementation duty (s.146 and s.127) that were reported to the National Convener.

(3) The enforcement actions taken by the National Convener, and their result.

This data is presented over the following pages, separated by Local Authority, with a Scotland-wide total also given.

Notes on the data are given at the end of this report.

Report for 2016-17

(1) Implementable Decisions made at hearings:

	Compulsory Supervision Order						ICSO		Total
	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied	IVCSO	Issued	Renewed	
Aberdeen City	201	279	24	115	7	80	108	105	914
Aberdeenshire	94	237	10	98	6	63	79	98	682
Angus	74	155	13	65		51	54	58	470
Argyll & Bute	63	112	5	36		16	13	15	258
Clackmannanshire	86	99	13	46	<5	26	44	50	365
Dumfries & Galloway	124	376	29	132	<5	34	44	67	806
Dundee	174	314	32	132	23	89	107	107	978
East Ayrshire	166	168	52	115	<5	70	76	133	774
East Dunbartonshire	86	52	10	20		21	11	19	219
East Lothian	77	125	8	62		22	43	49	386
East Renfrewshire	68	61	18	36		15	6	<5	207
Edinburgh, City of	360	627	100	233	11	173	168	188	1,842
Eilean Siar	8	17	5	19		<5	7	15	72
Falkirk	141	134	20	101	16	50	35	52	542
Fife	273	562	121	245	24	158	167	241	1,723
Glasgow	910	1,123	572	295	<5	453	308	410	4,036
Highland	78	349	8	122	17	96	111	144	922
Inverclyde	93	133	10	66		23	16	20	360
Midlothian	67	118	21	58	<5	16	55	58	393
Moray	53	112	5	39		27	24	32	292
North Ayrshire	245	360	52	114	<5	94	63	90	1,017
North Lanarkshire	259	233	104	179	<5	54	87	70	983
Orkney	6	22		8			6	6	48
Perth & Kinross	80	130	31	80	<5	45	58	82	504
Renfrewshire	236	412	64	154	<5	122	53	69	1,104
Scottish Borders	49	101	6	53	<5	35	41	66	352
Shetland	<5	13	<5	8	5	9	<5		41
South Ayrshire	181	235	46	110	<5	63	81	123	839
South Lanarkshire	205	305	86	157	12	98	141	152	1,148
Stirling	100	102	13	63	16	41	21	40	393
West Dunbartonshire	138	165		93		30	57	86	567
West Lothian	176	246	33	126	21	49	79	114	843
Total	4,874	7,477	1,513	3,180	181	2,124	2,164	2,762	24,080

(2) Implementation Breaches

For the decisions made during the year, 3 reports of breaches of implementation were made to the National Convener, relating to 3 children. These are detailed below. The Local Authorities in question are not named in order to prevent children from being identified.

Breach 1: The CSO required a child to be provided with respite care at a named placement. The Local Authority requested a review hearing as they were unable at the time to provide the named placement while waiting for funding to be agreed.

Breach 2: The Local Authority failed to provide a regular social worker.

Breach 3: The Local Authority did not allocate a social worker.

(3) Action Taken

Breach 1: The National Convener wrote to the Local Authority, and the respite care was arranged. No application to the Sheriff Principal for enforcement was necessary.

Breach 2: The National Convener wrote to the Local Authority, which replied outlining their corrective action. No application to the Sheriff Principal for enforcement was necessary.

Breach 3: The National Convener wrote to the Local Authority, which took corrective actions. No application to the Sheriff Principal for enforcement was necessary.

Report for 2017-18

(1) Implementable Decisions made at hearings:

	Compulsory Supervision Order						ICSO		Total
	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied	IVCSO	Issued	Renewed	
Aberdeen City	180	266	50	111	5	130	81	115	928
Aberdeenshire	83	190	21	78	5	43	53	70	541
Angus	80	156	28	69	<5	54	29	51	471
Argyll & Bute	49	122	11	30		23	15	16	257
Clackmannanshire	71	106	23	42	18	54	17	24	348
Dumfries & Galloway	137	352	18	126		58	57	61	809
Dundee	129	296	31	101	16	130	71	96	867
East Ayrshire	126	168	76	98		95	69	66	681
East Dunbartonshire	68	80	<5	26		14	12	19	223
East Lothian	69	115	15	73		46	35	39	392
East Renfrewshire	49	81	14	30		7	6	10	197
Edinburgh, City of	360	561	113	228	7	240	146	161	1,790
Eilean Siar	14	<5	<5	22	<5	<5	14	20	81
Falkirk	134	179	53	107	16	63	65	85	689
Fife	242	551	89	212	6	158	200	261	1,690
Glasgow	782	1,052	496	236	9	311	241	336	3,400
Highland	78	347	7	157	25	88	134	185	1,018
Inverclyde	96	138	12	47		14	13	19	339
Midlothian	82	131	11	66	6	58	67	56	477
Moray	45	98	<5	44		21	35	41	287
North Ayrshire	245	325	64	117	<5	83	96	105	1,034
North Lanarkshire	229	258	82	200	5	66	123	120	1,080
Orkney	11	14	<5	11			<5	<5	42
Perth & Kinross	80	128	35	57	<5	53	34	48	436
Renfrewshire	277	353	69	118	<5	60	50	51	974
Scottish Borders	54	94	<5	52	9	29	18	31	289
Shetland	6	9	<5	6	<5	<5	9	16	53
South Ayrshire	159	223	59	63		76	67	92	734
South Lanarkshire	161	320	119	145	14	126	122	121	1,116
Stirling	108	107	29	56	11	26	25	39	396
West Dunbartonshire	134	227	6	106	<5	80	66	102	719
West Lothian	135	232	45	102	15	46	55	66	695
Total	4,473	7,283	1,595	2,936	179	2,255	2,027	2,524	23,053

(2) Implementation Breaches

For the decisions made during the year, 2 reports of breaches of implementation were made to the National Convener, relating to 3 children. These are detailed below. The Local Authorities in question are not named in order to prevent children from being identified.

Breach 1: The Local Authority did not allocate a social worker and repeatedly failed to provide information to hearings.

Breach 2: The Local Authority did not provide a social worker or engage with the family and school.

(3) Action Taken

Breach 1: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Breach 2: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Report for 2018-19

(1) Implementable Decisions made at hearings:

	Compulsory Supervision Order						ICSO		Total
	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied	IVCSO	Issued	Renewed	
Aberdeen City	124	258	18	90	<5	100	57	74	721
Aberdeenshire	74	200	20	94	<5	45	72	108	613
Angus	92	110	18	79	<5	55	37	62	454
Argyll & Bute	49	93	14	39		21	13	20	247
Clackmannanshire	75	114	15	45	23	95	28	57	448
Dumfries & Galloway	145	333	26	151		81	74	93	902
Dundee	123	194	30	93	14	111	77	118	749
East Ayrshire	113	160	108	94	<5	64	88	110	718
East Dunbartonshire	50	56	5	18		12	10	18	168
East Lothian	62	146	33	54		50	38	42	407
East Renfrewshire	53	46	17	21		<5	10	11	161
Edinburgh, City of	361	636	95	245	<5	208	165	168	1,870
Eilean Siar	12	22	6	14	<5	14	<5		71
Falkirk	128	170	52	80	16	79	42	64	621
Fife	247	567	82	212	26	146	219	240	1,737
Glasgow	667	917	408	213	22	199	224	302	2,913
Highland	96	400	13	114	11	65	90	158	942
Inverclyde	76	124	8	70		23	21	17	337
Midlothian	89	85	27	51	<5	27	43	24	342
Moray	38	113	<5	46		41	26	28	293
North Ayrshire	199	318	51	122	<5	74	107	91	958
North Lanarkshire	286	266	112	212	7	97	110	85	1,166
Orkney	8	13	<5	5	<5		8	8	44
Perth & Kinross	70	112	25	70	17	20	34	52	400
Renfrewshire	246	325	58	140	<5	91	57	74	983
Scottish Borders	66	114	22	42	<5	33	33	30	340
Shetland	<5	21	<5	7	<5	19	<5	<5	61
South Ayrshire	153	248	69	81		88	86	108	825
South Lanarkshire	183	282	99	191	15	106	146	117	1,126
Stirling	107	93	22	63	20	14	32	42	392
West Dunbartonshire	139	313	8	114		85	57	65	779
West Lothian	170	189	22	66	10	64	53	91	664
Total	4,305	7,037	1,490	2,936	204	2,130	2,061	2,479	22,451

(2) Implementation Breaches

For the decisions made during the year, 2 reports of breaches of implementation were made to the National Convener, relating to 2 children. These are detailed below. The Local Authorities in question are not named in order to prevent children from being identified.

Breach 1: The Local Authority did not provide support or complete reports.

Breach 2: The Local Authority did not progress a referral to a residential school and had not enrolled a child in a separate named school.

In this year, one referral to Scottish Ministers was made due to the failure of an education authority to provide education to a child excluded from school.

(3) Action Taken

Breach 1: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Breach 2: The National Convener wrote to the Local Authority, CHS entered into dialogue with the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Report for 2019-20

(1) Implementable Decisions made at hearings:

	Compulsory Supervision Order						ICSO		Total
	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied	IVCSO	Issued	Renewed	
Aberdeen City	142	242	45	122	<5	103	139	71	856
Aberdeenshire	66	211	19	93	<5	72	101	42	606
Angus	75	125	27	64	<5	32	34	63	418
Argyll & Bute	50	87	10	43		10	9	11	220
Clackmannanshire	83	104	54	41	15	58	71	101	513
Dumfries & Galloway	119	296	45	99		56	51	59	725
Dundee	116	178	21	108	18	117	133	61	744
East Ayrshire	82	130	59	81	<5	60	71	83	558
East Dunbartonshire	52	45	7	44		29	63	6	246
East Lothian	58	116	34	56	5	34	38	47	378
East Renfrewshire	50	38	19	47		8	9	<5	172
Edinburgh, City of	358	449	133	173	8	150	162	167	1,589
Eilean Siar	10	20	<5	19		6	<5	13	69
Falkirk	109	144	72	87	11	60	86	130	676
Fife	207	526	94	182	23	192	262	128	1,598
Glasgow	621	820	301	318	5	271	415	229	2,940
Highland	124	322	35	110	13	78	125	85	886
Inverclyde	86	147	19	74		50	78	30	482
Midlothian	54	78	24	48		22	31	28	285
Moray	32	115	<5	38		28	35	23	272
North Ayrshire	213	263	115	140	<5	123	134	111	1,088
North Lanarkshire	240	343	107	183	8	77	88	117	1,150
Orkney	<10	18	<5	9	<5	9	7	<5	55
Perth & Kinross	66	124	24	51	<5	54	91	46	456
Renfrewshire	243	341	54	107		45	66	67	913
Scottish Borders	63	108	20	44	<5	23	31	22	313
Shetland	<5	17	<5	8	6	6	<5	<5	49
South Ayrshire	111	194	64	44	<5	56	64	76	593
South Lanarkshire	234	261	103	186	15	91	108	74	1,067
Stirling	106	107	30	36	13	20	20	40	360
West Dunbartonshire	129	288	23	75		50	79	70	711
West Lothian	95	180	32	77	12	57	81	59	593
Total	4,006	6,437	1,600	2,807	173	2,047	2,688	2,064	21,581

(2) Implementation Breaches and (3) Action Taken

No implementation breaches were reported, or enforcement action taken, for 2019-20 decisions.

Comment and Future Developments

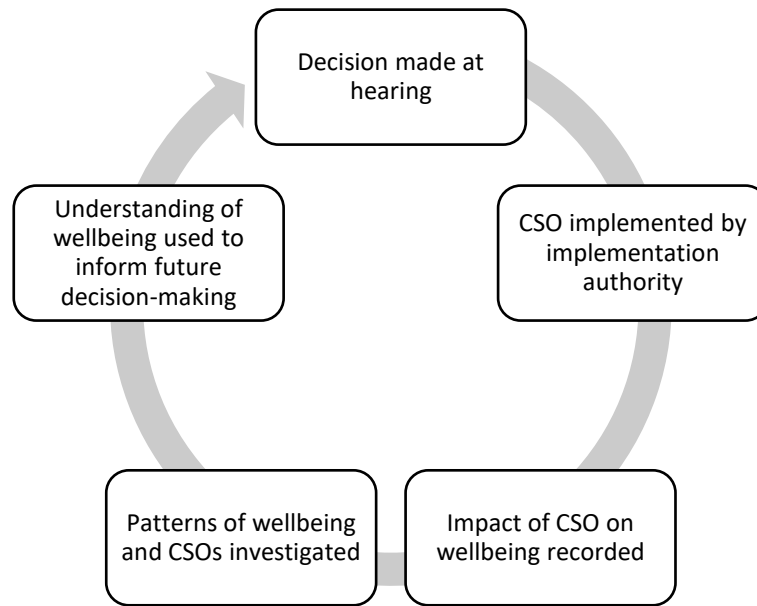
Ensuring that CSOs are given full effect by implementation authorities is an important responsibility of the National Convener. It has proved a valuable mechanism in making sure that the rights of children to receive protection and assistance are upheld. In all instances of breaches, intervention by the National Convener was only required at the end of 'Stage 1'.

Across the three years, only seven implementation breaches were reported to the National Convener for action. These seven came from within only two Local Authorities. This is an exceptionally low number relative to the number of orders requiring implementation by authorities. While this is heartening to see and suggests that compliance with the orders of hearings is generally good, it is also justified to ask the question whether this is a true reflection of all breaches of implementation duties that occur across Scotland or whether they represent, for example, only the most serious or repeated breaches.

The Promise report from the Independent Care Review highlights implementation as an area of interest. It states that "if implementing authorities fail to comply with orders and conditions of the Hearing, then they must be held to account to ensure children and families get the help and support that the Panel wants them to receive". Over the coming years, it may be necessary, in the interests of children and young, for the National Convener to have new and different conversations about the enforcement of orders by implementation authorities and how best to work with local authorities to ensure orders are implemented or appropriately reviewed.

CHS will therefore continue to monitor the number and types of breaches that are reported in order to identify any patterns but will also investigate how the reporting process currently works. The National Convener will seek to understand the thresholds around reporting of implementation breaches, and whether there is sufficient awareness of the steps that can be taken for enforcement in order to build a fuller understanding of the nature and scale of implementation breaches.

Understanding and reporting on the processes around implementation breaches only gives us part of the picture. Both the National Convener and Children's Hearings Scotland remain committed to achieving a more meaningful data set for Scotland's care system – one that allows us to understand how effectively our systems work by capturing not just the elements of process, but the outcomes and impact on the wellbeing of children. As articulated earlier in this report, the eventual aim is to be using wellbeing data collected routinely by implementation authorities and other partners to inform decision-making and therefore close the 'feedback loop':



This reflects the vision articulated in *The Promise*, which notes that “Scotland collects data on the ‘care system’ and its inputs, processes and outputs rather than what matters to the experiences and outcomes of the people who live in and around it...Scotland must improve the quality and completeness of its data and consider the potential of data linkage to improve accountability for outcomes rather than inputs alone”.

There is clear alignment between what the Feedback Loop is trying to achieve, and the ambitions of *The Promise*. During the implementation of the Promise, we will work with others to help shape the data and reporting requirements, and include the National Convener’s statutory reporting duty as a part of the national and local datasets to be put in place. Whether this entails adoption of nationally-consistent approaches to measuring and recording wellbeing, the use of tools to capture experiences and outcomes qualitatively, a combination of both, or something else entirely, we are keen to work alongside our partner agencies to progress this in order that the best decisions for children can be made.

This work will inevitably take time and investment. We anticipate that, given the current limitations of the data, the National Convener’s report on the Feedback Loop may remain in this format until new arrangements can be put in place.

Notes on the Data

The tables feature a count of hearings that made a particular decision during the year. It includes only those decisions that require implementation by an implementation authority. A single hearing may result in multiple implementable decisions.

The years given refer to financial years (1st April to 31st March).