

# Progressing Rights at Children's Hearings Scotland

2017 - 2020



children's  
hearings  
scotland

A Report by Children’s Hearings Scotland on the steps taken to secure better or further effect of the requirements of the UN Convention on the Rights of the Child (under section 2 of the Children and Young People (Scotland) Act 2014)

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# Foreword

We are approaching a major turning point in children's rights. At the time of publication, the United Nations Convention on the Rights of the Child (Incorporation) (Bill) has passed its final stage in the Scottish Parliament and is likely to come into force from October 2021. The Bill will see children's rights become legally protected in Scotland and embed them firmly within the operations and decision-making of our public functions.

It is central to our role to ensure that we at Children's Hearings Scotland treat our responsibilities under the United Nations Convention on the Rights of the Child seriously and take action to promote and protect the rights of infants, children and young people in our work and in children's hearings.

This report sets out our activity relating to the Convention's Articles during the period April 2017 to March 2020 and it is the first of what will be a series of reports. Whilst it highlights some great examples of work that have contributed to furthering children's rights within the children's hearings system, by both the National Team and our volunteer community, it also identifies where we could do better and how we are going to address this over the next two to three years.

Over time, this series of reports will allow us to evidence the increasing prominence that we as an organisation are giving to children's rights. This first report only examines the period up to March 2020 and a significant amount of work has been undertaken since then, highlighting our commitment to furthering children's rights. We have published our Children's Rights and Inclusion Strategy, appointed a coordinator to oversee its implementation, and made sure that the inclusion of children and young people formed a central part of our most recent Panel Member recruitment drive. We want to continue with this pace of change so we can be confident we take a children's rights based approach to everything we do here at Children's Hearings Scotland.

This is fundamental not only to effective hearings, but also to us delivering on The Promise.

This report, and the shorter, easy-read version that accompanies it, build on our Children's Rights and Inclusion Strategy, which was created in collaboration with young people who have lived experience of the hearings system. Their input has been invaluable. Now we have published our Progressing Rights Report, we would really like to hear what children, young people, carers and families, and wider communities think about this report and how they think Children's Hearings Scotland can contribute to enhancing children's rights within the hearing system. Opportunities for this will be made available on our website and social media.

We are grateful to our community, made up of staff and volunteers, for their continued hard work, and we are confident that children's rights will be at the heart of the evolving hearings system, driving everything we do in the future.

*"Throughout the changing landscape over the past few years, there has been clear unequivocal challenge to Scotland's care sector. We **must** put the children or young person's voice at the centre of all that we do."*

*- CHS Children's Rights and Inclusion Strategy*



**Garry Coutts**  
Chair, CHS Board



**Elliot Jackson**  
National Convener  
& CEO

# About Children's Hearings Scotland (CHS)

CHS is one of a number of organisations that work within the children's hearings system, Scotland's unique care and justice system that exists to ensure the safety and wellbeing of infants, children and young people in Scotland.

Our activities focus on recruiting, training and supporting volunteer Panel Members who make decisions in children's hearings (sometimes known as the 'Children's Panel'), and volunteer Area Support Teams who provide support and direction at a local level.

We have a national team of 40 staff and approximately 3,000 volunteers within our community. We are led by the National Convener and Chief Executive. The National Convener is responsible for the recruitment, training, retention and support of Panel Members.

When people are worried about an infant, child or young person they can make a referral to the Scottish Children's Reporter Administration (SCRA), one of other main organisations in the children's hearing system, and from there the Reporter decides if they need to arrange a children's hearing.<sup>1</sup> A referral can be made for many reasons, such as concerns about their care and protection, non-attendance at school and offending behaviour (including drug and alcohol misuse).

Between April 2017 and March 2020, our Panel Members sat on **94,569 hearings**.<sup>2</sup> In 2017/18, hearings were held for **14,076 children**, in 2018/19 for **13,667 children** and in 2019/20, for **13,316 children**.<sup>3</sup> Although a large number of children and young people are involved with the hearings system, this has been falling consistently over recent years.

## UNCRC and Children's Rights Reporting

The United Nations Convention on the Rights of the Child (UNCRC) is the international legal framework developed to ensure children's<sup>4</sup> rights are protected and ensured. It was introduced in 1989 and ratified by the UK Government in 1991.

It is the most widely ratified human rights treaty in history, helping to transform children's lives across the world. It has 54 Articles in total, where 1 – 42 apply to children specifically, while 43 – 54 outline how adults and governments should work together and are outwith the scope of this report.<sup>5</sup>

In 2019, the Scottish Government announced the UNCRC would be fully incorporated into Scots Law, a move that we fully support. Although the UNCRC is not yet part of Scottish law, as signatories to the Convention, all public authorities in Scotland have a duty, under Part 1 (section 2) of the Children and Young People (Scotland) Act 2014, to report after the end of each three year period, on the steps they have taken to secure better or further effect of the requirements of the UNCRC. This report covers the period April 2017 to March 2020.

1 The majority of referrals come from agencies such as the police, social work and education, but anybody (for example, parents, carers, neighbours, friends, or any member of the general public) can make a referral)

2 32,553 in 2017/18; 31,653 in 2018/19 and 30,363 in 2019/20.

3 CHS does not collect information on individual children therefore cannot produce disaggregated data.

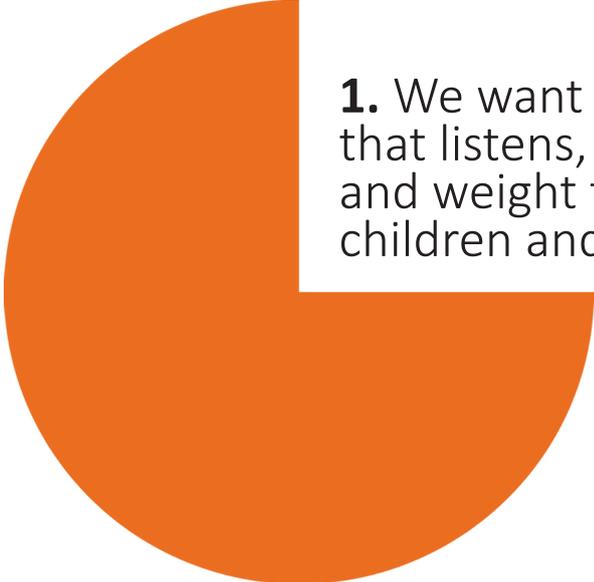
4 Any future reference to child or children includes: infants, children and young people under the age of 18 years.

5 CHS activity does not directly relate to Articles: 5,10,11,14,15,18,26,28(2),29,31,35,38 and 41.

# Our Vision for Rights and Inclusion at CHS

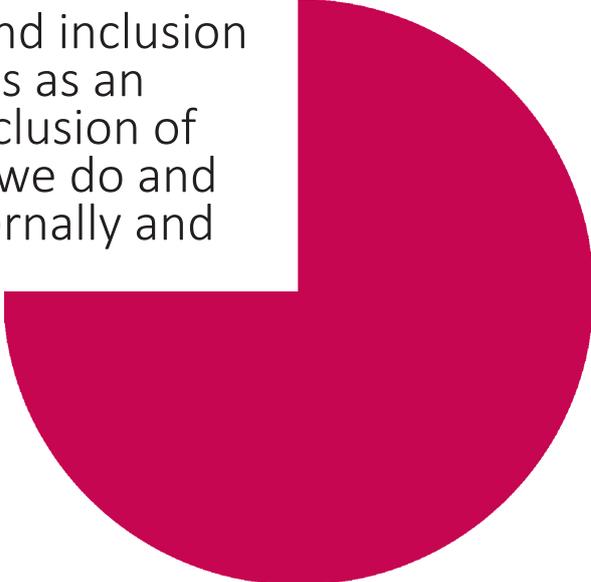
We are committed to putting children's rights and the UNCRC at the heart of everything we do. Our Children's Rights and Inclusion Strategy clearly states our vision for how we will carry out our work and the impact we want to see.

Our Children's Rights and Inclusion Vision:



**1.** We want a children's hearings system that listens, acts and places real value and weight to the views of infants, children and young people.

**2.** At Children's Hearings Scotland inclusion will be central to our core values as an organisation. Expression and inclusion of views will be evident in all that we do and will influence how we work internally and with partners.



**3.** Infants, children and young people will feel respected, valued, heard and included across all aspects of the children's hearings system.

# The UNCRC Clusters

To help us show you how we have contributed to ensuring children's rights are respected, protected, enabled and fulfilled, our activities have been linked to the UNCRC Articles and then grouped into the eight UNCRC clusters, as set out and recommended in the non-statutory guidance issued in relation to this report<sup>6</sup>. There is some overlap between clusters.

The Clusters and Articles are:

## Cluster (i) General measures of implementation

- Article 4- implementation of the Convention
- Article 41- respect for existing standards
- Article 42- knowledge of the Convention

## Cluster (ii) General principles of the UNCRC

- Article 2- non-discrimination
- Article 3- best interests of the child
- Article 6- life, survival and development
- Article 12- respect for the views of the child/to be listened to and heard

## Cluster (iii) Civil rights and freedoms

- Article 7- birth registration, name, nationality, care
- Article 8- protection and preservation of identity
- Article 13- freedom of expression
- Article 14- freedom of thought, belief and religion
- Article 15- freedom of association
- Article 16- right of privacy
- Article 17- access to information from the media
- Article 28- right to education
- Article 37- inhumane treatment and detention
- Article 39- recovery and rehabilitation of child victims

## Cluster (iv) Violence against children

- Article 19- protection from all forms of violence
- Article 39- recovery and rehabilitation of child victims
- Article 37(1)- no child subjected to cruel, inhumane or degrading treatment
- Article 28(2)- school approaches to managing behaviour and discipline

## Cluster (v) Family environment and alternative care

- Article 5- parental guidance and a child's evolving capacity
- Article 9- separation from parents
- Article 10- family reunification
- Article 11- abduction and non-return of children
- Article 18(1-2)- parental responsibilities and state assistance
- Article 19- protection from all forms of violence
- Article 20- children deprived of a family
- Article 21- adoption
- Article 25- review of treatment in care
- Article 27- adequate standard of living
- Article 39- recovery and rehabilitation of child victims

<sup>6</sup> Children and Young People (Scotland) Act 2014: Guidance on Part 1: Duties of Public Authorities in Relation to the United Nations Convention on the Rights of the Child (UNCRC).

Cluster (vi)  
Basic health and  
welfare

- Article 6- life, survival and development
- Article 18(3)- parental responsibilities and state assistance
- Article 23- children with disabilities
- Article 24- health and care services
- Article 27(1-2)- adequate standard of living
- Article 33- drug abuse

Cluster (vii)  
Education,  
leisure and  
culture

- Article 28- the right to education
- Article 29- the goals of education
- Article 30- children in minority/indigenous groups
- Article 31- leisure, play and culture

Cluster (viii)  
Special  
protection  
measures

- Article 22- refugee children
- Article 30- children of minority/indigenous groups
- Article 32- child labour
- Article 33- drug abuse
- Article 34- sexual exploitation
- Article 35- abduction, sale and trafficking
- Article 36- other forms of exploitation
- Article 37(a-d)- inhumane treatment and detention
- Article 38- war and armed conflicts
- Article 39- recovery and rehabilitation of child victims
- Article 40- juvenile justice

## Reporting on the Clusters

In this Progressing Rights Report we present how our main activities contribute to each of the UNCRC clusters and corresponding Articles. As this is the first of this series of reports, we have also included some operational details about hearings and the duties of Panel Members more generally, and explored how they relate to UNCRC obligations.

While some Articles sit in more than one cluster, we have only reported activity relating to each under a single cluster so as to avoid repetition:

Cluster	Reports on Articles...
(i)	4, 42
(ii)	2, 3, 6, 12
(iii)	7, 8, 13, 16, 17, 37, 39
(iv)	19
(v)	9, 20, 21, 25, 27
(vi)	23, 24, 33
(vii)	28
(viii)	22, 30, 32, 34, 36, 40

For cluster (i) we provide an overview of the framework and structures within which we work and show how they focus on and protect and progress children's rights.

For each of the clusters from (ii) to (viii) we provide:

- a list of all the Articles that sit within the cluster- identifying which of these Children's Hearings Scotland contributes towards and where they are discussed in the report, as well as identifying those that do not apply to our work;
- reflective statements relating to individual or groups of Articles – these describe our ambitions for children's rights. Some are from our Children's Rights and Inclusion Strategy and our formal outcomes, while others have been created specifically for the purpose of UNCRC reporting (these are shown as follows);

Like this

- a discussion of how our activity secures better or further effect of the requirements of the UNCRC Articles and supports our reflective statement;
- an evidence box, where we provide a summary of our activity relating to the cluster.

Throughout the report we have presented case studies to highlight some examples of our rights-based work that we are most proud of.

The final section of the report acknowledges our activity gaps and explains how we intend to address these. It presents our ambitions for the future, linking closely with our Strategic Outlook 2020-23 and our new Children's Rights and Inclusions Strategy.<sup>7</sup>

Throughout this report we have tried to use language that reflects the love, care and respect that all infants, children and young people have a right to. However, in some places, we have had to use words and phrases more commonly used when referring to the hearings system. Sometimes we have used these words because a hearing is a legal tribunal and some words have a specific legal meaning attached to them (for example, they are used in the Children's Hearing's (Scotland) Act 2011 or the UNCRC), and sometimes it is because there is no single word that means the same to everybody. However, we, like the Independent Care Review and The Promise, challenge these terms and commit to improving the language we use in the children's hearings system.

There is a glossary of key words and acronyms at the back of this report.

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<sup>7</sup> [CHS Corporate Plan: Our Strategic Outlook 2020-2023](#)

# Cluster (i): General Measures of Implementation

Cluster (i) focuses on knowledge of children’s rights and ensuring systems and structures are in place to respect and realise these rights. It includes activities such as the promotion of children and young people’s rights, awareness raising, training, capacity building, resourcing, and service planning.

This cluster covers Articles 4 (implementation of the Convention) and 42 (knowledge of the Convention).

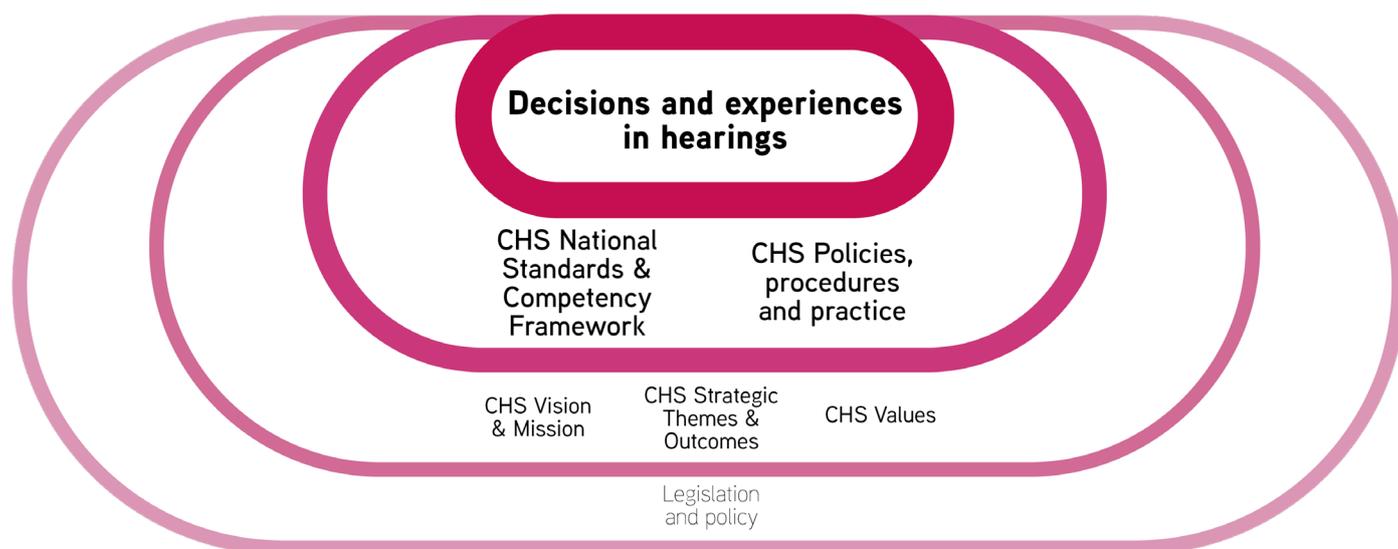
We have a core duty to ensure we are doing everything we can to realise that every child can enjoy their rights. All our organisational operations should promote rights and enable children to realise their rights. Panel Member decision-making should take rights into account. (Article 4)

CHS Children’s Rights and Inclusion Strategy

We operate within a strong child-centred context that ensures that the best interests of infants, children and young people lie at the heart of everything we do. Our work is guided by national legislation and policy, as well as our own values, vision and mission. Children’s Hearings Scotland’s strategic themes and outcomes focus on meeting the needs of children and young people and ensuring that we better protect and uphold their rights.

As part of this, we aim to prioritise the best interest of babies, infants, children and young people by making sure sound decisions are made in hearings and children and young people have good quality experiences of the hearings system, and to continually improve our performance.

A summary of our operational context is given below:



## Legislation and policy

Our work sits within a legislative framework designed to protect children and young people and ensure that they can access their rights. Our core pieces of legislation and agreements are:

- The Children’s Hearings (Scotland) Act 2011;
- The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) 2013;
- The Children and Young People (Scotland) Act 2014;
- The European Convention on Human Rights;
- The United Nations Convention on the Rights of the Child.

Our key statutory functions, duties and powers are set out in the Children’s Hearings (Scotland) Act 2011 (“the Act”). Our aims are:

- to pursue with care and creativity the best interests of infants, children and young people who are, or may be, referred to children’s hearings;
- to work collaboratively with, lead and influence partner agencies in the children’s hearings system to improve delivery and outcomes for children.

Our key objectives are:

- to inform and implement national policy initiatives to support infants, children and young people in vulnerable situations, and their families and communities;
- to improve outcomes for infants, children and young people by working more effectively with partners in an integrated hearings system;
- to optimise the quality of panel decision-making and to work with partners to realise the best possible outcomes for infants, children and young people in the hearings system.

There are three overarching principles contained in the 2011 Act which must be applied when hearings are making decisions about a child:

- the need to safeguard and promote the welfare of the child throughout the child’s childhood is the paramount consideration;
- the child must be given the opportunity to express a view and this view must be taken into account in line with the child’s age and maturity;
- an order is only to be made if it is considered better for the child than if no order was made.

Under the Children and Young People (Scotland) Act 2014, CHS has corporate parenting duties to promote the welfare of, and the opportunities available to, children and young people with lived experience of the care and/or hearing system. We set up a joint corporate parenting website with Scottish Children’s Reported Administration (SCRA)<sup>8</sup> and have shared corporate parenting aims for children and young people within the hearings system:

- you are at the centre of the children’s hearings system and are treated as an individual;
- the decisions that may affect you are based on sound knowledge, clear evidence and with consideration of your views;
- your corporate parents will work together to make the hearings system work better for you;
- we will keep asking ourselves if the way we do things is the best it can be.

Our volunteer Area Conveners, the leads of local volunteer Area Support Teams, have received training on their corporate parenting role and responsibilities to develop their understanding of how they can work with children and young people and local partners to provide the best possible support. Many of our Area Support Teams attend meetings of their local authority Corporate Parenting Board. They work with representatives of other corporate parents to improve outcomes for babies, infants, children and young people with lived

8 [www.mycorporateparents.co.uk](http://www.mycorporateparents.co.uk)

experience of hearings and/or care.

Our work is also guided and shaped by national policies and frameworks designed to support children and young people in Scotland, such as the Scottish Government's National Performance Framework and its National Outcomes, Getting It Right for Every Child (GIRFEC) and the SHANARRI<sup>9</sup> wellbeing indicators.

Children's Hearings Scotland is one of a number of organisations who work within the hearings system, including the Scottish Children's Reporter Administration (SCRA), local authorities, NHS Scotland, and Police Scotland. We work in partnership with these other organisations and the third sector to monitor, develop and improve practice, with an ambition to provide a hearings system that meets the need of all babies, infants, children and young people involved.

During 2017-20, Children's Hearings Scotland was actively involved in a number of multi-agency groups working toward improving the hearings system and ensuring babies, infants, children and young people's rights are met. These include:

- CHIP (Children's Hearings Improvement Partnership);
- Youth Justice Improvement Board;
- Secure Care Strategic Board;
- Independent Care Review;
- Reframing Care Advisory Group;
- Implementation Group for the Age of Criminal Responsibility (Scotland) Act 2019;
- Children's Hearings Advocacy Expert Reference Group.

We have also responded to a number of Scottish Government consultations expressing our support for furthering children's rights (such as the incorporation of UNCRC into Scots law and raising the age of criminal responsibility).

Children's Hearings Scotland has provided advice to the Scottish Government and other partners on the implementation of UNCRC principles in relation to youth justice and the hearings system.

We ensure our values, mission and vision promote the rights of the child and these are reflected in all our public documents and statements. (Article 4)

We ensure all Panel Members and staff understand and share the mission, vision and values of CHS and work to ensure that these form part of all the decisions they make in the best interests children and young people. (Articles 4 and 42)

## Our values

- child-centred – making sure everything we do is in the best interests of children and young people;
- respectful – treating children, young people, their families, partners and each other with care and consideration;
- fair – making sure that everyone is treated with dignity and according to their individual needs; that our information and services are accessible to all; that we provide a

<sup>9</sup> Scotland has named eight areas of a child's life which can make their wellbeing better or worse - Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included. These are known as the SHANARRI indicators.

- consistent level of service to all;
- creative – considering innovative and imaginative ways of approaching the issues we face in the work we do;
- challenging – not being complacent, but questioning ourselves and others to help us improve;
- open – listening, responding to, and learning from, feedback; acting honestly; ensuring processes are transparent; sharing information and being accountable for our actions and decisions.

## Vision and mission

Our vision over the last three years has been of a children’s hearings system where everyone works together, making sure that all children and young people are cared for and protected and their views are heard, respected and valued.

*“82% of volunteers agree that CHS motivates them to help achieve its mission for children and young people.”*

*- 2019 Community Survey*

*“92% of staff agree they understand how their role supports CHS’ vision, values and national standards.”*

*- 2017 Staff Survey*

Our mission has been to improve outcomes for babies, infants, children and young people in Scotland by making high quality decisions about their future.<sup>10</sup>

We have set key strategic outcomes that ensure that every child has a child centred hearing, with high quality decisions, and is supported by skilled volunteers. (Article 4)

## Our strategic themes and outcomes

Between 2018 and 2020, our Corporate Plan placed listening and the importance of children’s views at the heart of our first Strategic Outcome: “Children’s hearings are centred around the child or young person and their views and experiences are heard, considered and respected”.

During 2019, we began work on revising our strategic approach to create an ambitious improvement-driven direction that places children’s rights at the centre of Children’s Hearings Scotland. This resulted in *Our Strategic Outlook 2020-2023*<sup>11</sup> which sets out our priorities for the next three years and the first theme focuses more explicitly on rights - ‘Better protect and uphold the rights of children’. This theme forms the basis of our new *Children’s Rights and Inclusion Strategy*<sup>12</sup>.

<sup>10</sup> This is an example of where our language is already evolving to better reflect our ambitions for children in Scotland. [Our Strategic Outlook, 2020-23](#) states that our purpose is ‘to equip our volunteer community to engage positively with infants, children and young people and families; ensuring children are loved, cared for, respected and feel part of decisions taken to improve their lives.’

<sup>11</sup> [CHS Corporate Plan: Our Strategic Outlook 2020-2023](#)

<sup>12</sup> [Children’s Rights and Inclusion Strategy, Version 2.0, 20th November 2020](#)

## *Developing our Children's Rights and Inclusion Strategy*

*In 2019, CHS established a Rights & Inclusion Working Group involving young people with lived experience of the hearings system and representatives from our staff and volunteer community, as well as from partner organisations, including SCRA, Children in Scotland, and CELCIS. We also consulted with Staf, LGBT Youth Scotland, the Care Commission, and the Carnegie UK Trust. Its purpose was to begin to formulate a strategy for the effective inclusion of children and young people in our work. The first major output from the group was the publication of our Children's Rights and Inclusion Strategy in November 2020.*

## National standards and competency framework

Our National Standards<sup>13</sup> provide a clear framework of practice, setting out responsibilities and core values, principles and expectations in relation to behaviours and practice.

- **Standard 1** – Children and young people are at the centre of everything we do;
- **Standard 2** – Panel Members are well equipped and supported to undertake their role;
- **Standard 3** – Panel Member practice is consistent across Scotland;
- **Standard 4** – Every children's hearing is managed fairly and effectively;
- **Standard 5** – Every children's hearing makes decisions based on sound reasons in the best interests of the child or young person;
- **Standard 6** – Area Support Teams are well equipped and supported to undertake their roles;
- **Standard 7** – Communication and information sharing across the Children's Panel, Area Support Teams and Children's Hearings Scotland is clear, appropriate and purposeful;
- **Standard 8** – Functions, roles and responsibilities are clearly defined and understood within the system.

CHS has a Competence Framework for Panel Members<sup>14</sup> which closely links to the national standards and aims to describe the elements of behaviour, knowledge and skill which represent best practice in relation to the role and function of Panel Members. The competency areas are:

- Law and procedure- demonstrate an appropriate level of knowledge of the law, procedures and best practice in children's hearings and this is evident in their practice (Standards 1,3,4,5);
- Equal treatment- ensure and promote equal treatment for all involved in the hearing (Standards 1,3,4,5);
- Communications and children's views and participation- ensure effective and purposeful communication at a hearing (Standards 1,3,4,5);
- Conduct of hearing- ensure a fair and effective hearing (Standards 1,3,4,5);
- Management of information- ensure that all relevant issues are addressed by obtaining and managing information (Standards 1,3,4,5);
- Decision-making- properly consider the child's needs, identification of relevant resources, effective deliberation and reasoned decisions for the future care of the child (Standards 4,5);
- Protecting rights- ensure that children's hearings are compliant with the European Convention on Human Rights (ECHR) and UNCRC and any other relevant legislation (Standards 1,3,4,5).

13 [National Standards for the Children's Panel](#)

14 [Competence framework for panel members, 2012](#)

We support Panel Members to make the best possible decisions for children and young people through our team of Panel Practice Advisors (PPAs). The PPA observation programme means each Panel Member has a minimum of two observations a year, where they are assessed against indicators in each of the competencies to ensure they can demonstrate their ability to meet them and continually improve their practice. PPAs form a key part of our quality assurance process, playing a critical role in ensuring and maintaining the high quality of, and consistency within, our Children's Panels, so that they meet the needs of children and young people.

In 2018, we strengthened PPAs role through a series of learning events, the establishment of new Panel Practice Advisor Forum, a national PPA Training Course and a review of PPA recruitment.

## Policies, procedures and practices

Many of our operational structures and internal policies and procedures support children's rights and are discussed in relation to the relevant Articles in each cluster. These include our:

- Information Governance procedures;
- Complaints handling policy and procedure ;
- Equalities outcomes;
- Communications outcomes;
- Monitoring of Panel Practice and Panel Practice Observation Policy;
- Conduct and Values Policy;
- Equality, Diversity & Inclusion Working Group.

We proactively consider children's' right in service planning and engage with and undertake consultation with relevant stakeholders, including children and young people. (Articles 4 and 42)

Our business planning processes actively consider how we will include young people in our work. Our budgets include an allocation for enabling the participation of young people in our work and we provide devolved funding to each Area Support Teams to empower them to meet local needs.

We work to ensure that the voice of children and young people is at the heart of everything we do and active participation of children and young people is at the core of our work. We include them in decisions we make, through involvement in recruitment and training, working groups, and consultations. We, along with SCRA, championed the establishment of and consulted with a young person's Board – Our Hearings, Our Voice (OHOV). (See Cluster (ii), Article 12 for more detailed discussion of how we include young people in our work).

We optimise the quality of panel decision-making through a package on ongoing, high quality training and communication to realise the best possible outcomes for children in the hearings system. (Articles 4 and 42)

We ensure all staff and Panel Members are aware of the UNCRC how their decisions should be informed by this. (Article 42)

We deliver a high quality national training programme for staff and volunteers through our Children's Hearings Scotland Learning Academy, where all training programmes are linked

to our values, National Standards and Panel Member competencies, to ensure that Panel Members feel supported in their role.

All Panel Members have to undertake comprehensive pre-service training and assessment, which is the first stage of our three-year Professional Development Award Programme. This ensures they understand the principles of the hearings system, the legislative framework within which it operates, and how to make decisions in the best interests of children. Pre-service training includes children's rights, the UNCRC and communicating with children.

*"98% of pre-service trainees felt that their learning objectives were met"*

In 2018-19, we introduced our Conduct and Values Policy for the pre-service programme. This traffic light system allows signposting of trainees, and early intervention by staff to provide support, if appropriate conduct or organisational values are not evidenced. Once qualified to sit on hearings, Panel Members also undertake a wide variety of training courses which help them make decisions that secure children's rights.

*- 2019 Community Survey*

In addition to pre-service training for new volunteers, all Panel Members receive ongoing training. Some examples of training over the period 2017-20 that support and protect children's rights include: the Children and Young People (Scotland) 2014 Act and GIRFEC; Information Governance (including General Data Protection Regulation (GDPR), the Data Protection Act, data security and cyber awareness); Equality, Diversity and Inclusion; Contact; Effectively Communicating with Children; and Management of Hearings and Managing Conflict within Hearings.

*"93% of Panel Members agree they feel well trained to carry out their role."*

We also began developing courses on other important topics, including permanence and children's rights, for roll-out in 2020/21. Training is discussed throughout this report in relation to other relevant clusters and Articles.

*- 2019 Community Survey*

Through our Area Support Teams we deliver a local learning programme to enhance our approach to quality and provide national consistency in practice. This covers topics such as quality assurance, complaints investigation procedures and recruitment and reappointment. We have piloted a course Improving Outcomes for Children and Young People.

Area Support Teams arrange their own local learning and development programmes, and have run sessions, which often involve external practitioners, on topics that help protect and promote children's rights. Some examples of these are learning events on child and adolescent mental health, drug abuse, domestic violence, LGBTI young people, unconscious bias, trauma, attachment, early intervention, and advocacy.

Our Practice and Procedure Manual is key to ensuring Panel Members are fully informed so that the decisions they make are in the best interests of babies, infants, children and young people. It provides access to current policy, good practice and legislation, and detailed and comprehensive advice on how hearings are conducted. It includes guidance on areas directly relating to children's rights, such as managing complex hearings, minimising barriers in hearings, maintaining important relationships for children and young people and improving outcomes.

The Practice and Procedure Manual, which is now online, is regularly updated<sup>15</sup>, and we provide regular practice updates (for example, since March 2020, on the age of criminal responsibility and advocacy) to ensure decisions always reflect any changes in legislation or policy and to support continuous improvement of Panel Member practice.

*“77% of volunteers agreed that practice updates help them improve their practice”*

*- 2019 Community Survey*

We monitor our organisational performance through a variety of measures, including our key performance indicators, strategic outcomes measures, monthly operational reports and surveys with the CHS community, made up of our National Team and our volunteer community. These help us identify any improvements that we may need to make to ensure the needs of babies, infants, children, young people and their families are being met.

## Cluster (i): Summary of Evidence

- Our legislative and operational framework:
  - aims and objectives
  - the three overarching principles
  - corporate parenting duties
  - national performance Framework; GIRFEC; SHANARRI wellbeing indicators
- Internal policies, procedures and practices
- Our values, vision and mission
- Our strategic themes and outcomes
- Our National Standards and Competence Framework
- Collaboration with key partners and stakeholders
- Statutory functions data
- Practice and Procedure Manual
- Our national training programme delivered through our Learning Academy
- Local learning and development sessions delivered through our Area Support Teams
- Our Panel Practice Advisors quality assurance programme.

<sup>15</sup> Our new online Practice and Procedure Manual was updated in collaboration with SCRA, the Learning Academy, CELCIS, CYCJ and CEDAR.

## Cluster (ii): General principles

This section covers the four guiding principles of the UNCRC, which are Articles:

- 2- non-discrimination
- 3- best interests of the child
- 6- life, survival and development
- 12- respect for the views of the child.

CHS organisational operations, Panel Member decision-making, and how hearings run should protect children from all forms of discrimination. (Article 2)

CHS Children's Rights and Inclusion Strategy

Article 2 states that the UNCRC applies to all children without discrimination of any kind, such as that relating to ethnicity, gender, religion, language, opinions, disability or any other status, and that measures should be taken to protect them against all forms of discrimination.

At CHS we do everything we can to protect babies, infants, children and young people from discrimination. Our vision, mission and values set out our commitment to provide a consistent level of service to all children, young people and their families and to improve outcomes for everybody who comes, or may come, to a hearing. We treat everybody according to their individual needs and ensure our information and services are accessible to all.

*“88% of volunteers believe CHS is fair, making sure that everyone is treated with dignity and according to their individual needs; that our information and services are accessible to all; that we provide a consistent level of service to all.”*

*- CHS Community Survey 2019*

Our ambition is to promote and celebrate an equal, diverse and inclusive culture within the CHS community through a process of continual engagement, communication, training and development. We continue to mainstream our equalities duties across all aspects of our work by publishing equality information to demonstrate our compliance in meeting the general and specific public sector equality duties in the Equality Act 2010 and our performance against our own Equality Outcome measures.

Our Equality, Diversity and Inclusion Working Group, which includes CHS staff, volunteer community members, partner organisations and young people, has developed a new set of equality outcomes<sup>16</sup> and started to develop our Equality, Diversity and Inclusion Strategy for publication in 2020/21.

Our Equalities Outcomes 2018-20 reflect our commitment to non-discrimination. Key areas of relevance to the protection and promotion children's rights are:

- Outcome 3- our staff are knowledgeable on equality and diversity related practices and feel confident that they can apply their learning and knowledge to their work, for example, competently conducting equality impact assessments (where appropriate), advising and supporting our volunteer community with any equality or diversity related matters, advising our partners, stakeholders and service providers on any equality and diversity considerations:

16 [CHS Equality Outcomes Report 2018-20](#)

- 3.1- CHS employees have a sound awareness on equality and diversity matters and feel confident in supporting others;
- 3.2- Staff are competent in carrying out Equality Impact Assessments (EqIAs) on any new or revised strategies that they are responsible for developing.
- Outcome 4 – our volunteer community are fully trained and supported in equality and diversity matters and this enables them to confidently and fairly address the needs of children, young people and their families:
  - 4.1- children and young people from all 22 areas in Scotland consistently report that they felt that they were the most important person at the hearing and that they were treated fairly and with dignity and respect.

All members of the CHS community are required to undertake equality, diversity and inclusion training, which is now delivered online through our Learning Academy. This was previously mandatory only for those volunteers involved in recruitment, but from 2021 it will become mandatory for all new volunteers and be rolled out to the whole CHS community.

Area Support Teams have run local learning and development sessions to help prevent discriminatory practices, for example, on Cultural Perspectives, Rights, Values and Culture, LGBT<sup>17</sup> Young People and Unconscious Bias.

Our Practice and Procedure Manual (PPM) includes sections on culture, race, nationality and ethnicity, which are designed to ensure that Panel Members' behaviour, language and decision-making is inclusive and not discriminatory or prejudicial to children and young people of a different culture, race or ethnicity to them. It also includes sections on gender identity, sexuality, disability and autism, which again make clear our expectations of Panel Members' conduct.<sup>18</sup> (See Cluster (vi) – Basic health and welfare, Article 23, for further detail about what we do to support children and young people with disabilities).

Everybody involved in a hearing should be able to participate effectively and we ensure that measures are taken to enable all children, including those with communication, learning and language difficulties, are able to do so. Some families who come into contact with the hearings system do not have English as a first language. Many of these families will need an interpreter to communicate during the hearing. Panel Members can defer proceedings to arrange for an interpreter (including a sign language interpreter) if it is apparent that the child does not have the language skills to meaningfully participate in their hearing, or they prefer to speak in their own language.

To help Panel Members minimise language barriers within hearings, the Practice and Procedure Manual contains sections on working with interpreters and inclusive language.

We actively work with our partner agencies to improve the experiences of children and young people from minority groups, for example, through the CHIP LGBTI working group and the Reframing Care Advisory Group, which looks at how to reframe public perceptions of people with lived experience.

CHS is working towards ensuring children's panels reflect the diversity of children and young people involved in the hearings system, with a focus on BME communities. This included chairing a national inter-agency working group<sup>19</sup>.

<sup>17</sup> Lesbian, Gay, Bisexual and Transgender

<sup>18</sup> [CHS Practice and Procedure Manual V3.0](#)

<sup>19</sup> CHS Business and Corporate Parenting Plan 2019-20

Across all 22 Area Support Teams, Panel Members are observed at least twice a year by our PPAs to ensure they are following correct legal procedures and providing a high quality experience to children and families. The process focusses on how Panel Members' practice reflects our values and how they interact within children. PPAs also have a role in identifying any discriminatory behaviour and they must take action accordingly.

*"79% of volunteers agree that observations and feedback helps them improve their practice in hearings"*

*- 2019 Community Survey*

We use a Complaints and Concerns Tracker to monitor any concerns raised, including about discriminatory conduct towards a child, young person or their family on the basis of belonging to a protected characteristic group. Any complaints raised are addressed in line with Scottish Public Services Ombudsman (SPSO) requirements and outcomes may include a variety of actions including providing a Panel Member with additional training.

We also ensure that our communications with children, young people and their families are accessible. We have increased our use of social media and have worked to improve the accessibility of our website, including adding a new section aimed specifically at children and young people. We have started to roll out Panel Member Profiles and, with SCRA, have made improvements to hearing rooms. These aspects of our work are discussed in more detail in relation Article 13 in Cluster (iii) – Civil rights and freedoms and Article 23 in Cluster (vi) – Basic health and welfare.

We are doing everything we can to ensure Panel Members are making decisions that are in the best interests of children and enable the necessary care and protection. We adhere to all necessary standards (Article 3)

CHS Children's Rights and Inclusion Strategy

Article 3 states that the best interests of the child must be a top priority in all the decisions and actions that affect children. This lies at the heart of CHS' purpose, vision and values.

As stipulated in the Children's Hearings (Scotland) Act 2011, hearings act in the best interests of the child or young person to help, support and protect them. The need to safeguard and promote the welfare of the child throughout the child's childhood is the paramount consideration that Panel Members need to apply when making decisions about a child.

*"90% of volunteers agree CHS is child centred: making sure everything we do is in the best interests of children and young people"*

*- CHS Community Survey 2019*

Our volunteer Panel Members undertake training and development to make sure that they are well equipped to make decisions in the best interests of children and young people and that they know how to conduct hearings fairly. They are continually kept informed about any changes to legislation and practice, through practice updates.

*"84% of volunteers say they receive information that helps keep their practice current and 91% are confident in their knowledge of the legislation to carry out their role effectively"*

*- CHS Community Survey 2019*

In addition, every hearing has to consider whether to appoint a Safeguarder, who is an independent person that helps Panel Members make the best decisions for a child. The role of the Safeguarder is to safeguard the interests of the child to whom the hearing relates by ensuring that:

- the child’s rights are protected;
- the views of the child are established and communicated to the hearing;
- any proposals being made are in the child’s best interests.

If a Safeguarder is appointed by the hearing they must prepare a report and include one or more of the following:

- anything the Safeguarder thinks is relevant to the consideration of the hearing;
- the child’s views so far as practicable in light of the age and maturity of the child;
- any issue which the Safeguarder has been asked to consider by the hearing.

Panel Members are, to the greatest extent possible, making decisions that ensure the survival and development of the child. (Article 6)

CHS Children’s Rights and Inclusion Strategy

Under Article 6 all children have a right to life and organisations must do all they can to ensure that children survive and develop to their full potential.<sup>20</sup>

The role of a Panel Member is to: listen to children and young people and to make decisions with and for them to ensure their needs are being met, and ensure that they can achieve their full potential and have a happy and fulfilling childhood. While the hearing does not provide services directly to a child or young person, it can help them to access the help and support they need to thrive.

We involve children and young people with lived experience of the hearings and/or care system in our work, providing them with opportunities to develop life skills and contribute to the CHS community. In the second of our Equalities Outcomes we commit, as a Corporate Parent, to working with third sector organisations and educational establishments to provide work experience opportunities for young people, particularly for those who may have experienced adversity. We also provide personal development opportunities for those young people participating in OHOV (see Article 12).

### *CHS Internship*

*We have worked with the Robertson Trust to host summer internship opportunities for 3<sup>rd</sup> year university students. In 2018 and 2019, throughout the summer period, interns contributed to the delivery of communications activity, such as producing video and social media content, for our biggest campaign of the year, our Panel member recruitment campaign.*

We promote and celebrate all infants, children and young people, including those with lived experience of the hearings and/or care system, through participation in national and local events, such as:

<sup>20</sup> Our Children’s Rights and Inclusion Strategy has used the language of ‘survival and development’ in relation to Article 6 to reflect the words used in the UNCRC. However, this is an example of where we will in the future use language that better reflects our ambition to help children have positive childhood experiences and to thrive in all they choose to do.

- Care Day;
- Care Experienced Week;
- Children’s Day;
- Foster Care Fortnight;
- International Day of Families;
- International Youth Day;
- Neurodiversity Celebration Week;
- Student Volunteer Week;
- Young People’s Human Rights Day.

### *Renfrewshire Area Support Team – Care Experienced Week*

*During Care Experienced Week in October 2018, our Renfrewshire Area Support Team held a training and ‘Year of Young People’ event for eight Area Support Team members and over 40 local Panel Members. The event, run in conjunction with CELCIS, Clan Childlaw and Who Cares? Scotland, aimed to increase awareness amongst the CHS community in Renfrewshire of the thoughts and feelings of young people who have been to hearings, to help develop Panel Member communication. Ten young people with lived experience of the care system contributed to the event, alongside policy influencers and decision-makers, including SCRA Reporters.*

*The event focused on reflecting on current practice in hearings and looking at future practice. Workshops discussed the legal rights of young people and the implications of separating brothers and sisters, including the effect that this can have on the lives of children and young people. The latter was delivered by young people who had experience of such separation. Panel and Area Support Team members gained a greater understanding of the experiences of young people in children’s hearings and how to make improvements in future.*

Much of the training we provide for Panel Members focusses on how experiences can impact on a child or young person throughout their lifetime, covering issues such as ACES (adverse childhood experiences), attachment, maintaining family contact, improving relationships, and child development.

Enhancing the wellbeing of babies, infants, children and young people is at the heart of everything we do and we work collaboratively with, lead and influence partner agencies in the hearings system and wider community, to ensure that the hearings system supports them to develop to their fullest potential. Hearings and the National Convener can make sure that the decisions made in hearings are implemented by initiating a process of formal notification and enforcement. This is covered below at Article 20.

Panel Members are providing children the opportunity to express their views (directly or through a representative) to a hearing and Panel Members give the views due weight. (Article 12)

CHS Children’s Rights and Inclusion Strategy

Article 12 gives every child the right to their own opinion and for their views to be listened to and taken seriously. In particular a child has a right to be heard, either directly or through

a representative, in legal proceedings and their views must be considered when people are making decisions about things that involve them.

Children and young people are encouraged to actively participate in their hearing and listening to children and young people's views is at the centre of every hearing. Our overarching principles state that in a hearing, 'the child must be given the opportunity to express a view and this view must be taken into account in line with the child's age and maturity'.<sup>2122</sup>

It is presumed that children aged 12 years or over are able to form and express their own views but we also help younger children to form and express their views in ways suitable for their age and stage of development and in accordance with each child's needs. This is discussed in more detail in Cluster (iii) – Civil rights and freedoms, Article 13 (freedom of expression).

### *CHS consultation response to the Children (Scotland) Bill*

*In November 2019, CHS submitted a consultation response expressing support for the proposed amendment to the 2011 Act to clarify that the views of a child of any age can and should be sought and taken into account when legal decision-makers are making important decisions about them.*

As discussed in relation to Article 3, at every hearing Panel Members must consider whether a Safeguarder should be appointed. One of the key roles of a Safeguarder is to ensure the views of the child are established and communicated to the hearing.

*"In 2019/20, 817 hearings were deferred in order to appoint a Safeguarder or to get a report/assessment by a Safeguarder"*

*- SCRA Statistical Analysis 2019/20*

Reports submitted to the hearing should, wherever possible, contain the child's views. At the start of a hearing, if it appropriate to do so, the chairing Panel Member must establish if the child or young person agrees that the documentation they have received accurately reflects their views. If they do not agree, the views of the child or young person must be established before the hearing takes place.

Panel Members must be sure they have heard the views of the child or young person before they make a decision. As the child's welfare is the paramount consideration for Panel Members, a hearing can make a decision which is different from the child's view but, if this is the case, Panel Members should explain to the child why they have done so, and record the child's view in the hearing's written reasons for their decision.

Infants, children and young people can have legal representation at a hearing and this can help ensure their views are considered. Legal representation is discussed more detail in Cluster (viii) – Special protection measures, Article 40 (juvenile justice).

If Panel Members feel that somebody within the hearing is preventing the views of the child or young person being heard, or their presence is causing or likely to cause, distress to the child or young person, they can decide to exclude that person from the hearing.

21 Practice and Procedure Manual

22 [chscotland.gov.uk/resources/equality-and-diversity/](https://chscotland.gov.uk/resources/equality-and-diversity/)

To support children and young people express their views, we make sure they know that they can ask Panel Members to consider speaking to them on their own. They can also ask have one of the same Panel Members at their next hearing. We have introduced new streamlined procedures around Panel Member continuity that allow for requests to be approved more efficiently.

### Requests for continuity

Year	No. requested	% requested
2017-18	473	95%
2018-19	506	99%
2019-20	749	100%

Panel Members are fully trained through pre-service training and subsequent courses, to ensure that all the legal obligations are met and that they have the skills and knowledge to encourage effective participation of children and young people. This is supported by guidance in the Practice and Procedure Manual.

Children and young people are encouraged and supported to participate in the planning, provision, delivery and evaluation of our work. (Article 12)

At CHS we work hard to ensure the views of children and young people are incorporated into everything we do, not just within the hearing room. We also provide opportunities and encourage children and young people to feedback their opinions about CHS and to get involved with our work to help us improve the service we deliver.

We work proactively with care and hearing experienced children and young people and we encourage them to speak freely and honestly to help inform our practice and improve the way we operate to better meet their needs. We work with Our Hearings, Our Voice (OHOV), an independent board for children and young people who have experience of the hearings system, and engage locally with Champions Boards to help develop and improve our work.

### *Our Hearings, Our Voice*

*With SCRA and other partners, we championed the establishment of a young person's Board, 'Our Hearings, Our Voice (OHOV)', to ensure children and young people with experience of children's hearings help to hold the hearings system to account and continually improve it by amplifying the voices of young people. Through its Operational Group, young people have had the chance to express their views and contribute towards our recruitment plans, application packs, and training courses.*

Children and young people help shape the services Children's Hearings Scotland provide and are represented on many of our internal working groups. Through these shared learning groups, as well as consultation events, they have helped produce and improve our reports (such as Our Strategic Outlook 2020-23 and our new Children's Rights and Inclusion Strategy), as well as our website.

Young people play an increasingly active role in developing our recruitment campaigns. We have held development days in collaboration with stakeholders such as Young Scot, Who Cares? Scotland, the Independent Care Review, the Frameworks Institute and Robertson Trust, where young people have helped design our campaigns to recruit volunteers. Our Communications and volunteer recruitment teams have worked with young people

with lived experience of the hearings system to produce marketing materials to support our advertising campaigns.

### *Co-production of the CHS national recruitment campaign design*

*During 2019, we worked with young people who have lived experience of children's hearings and/or the care system, along with the Frameworks Institute and the Robertson Trust, to co-produce refreshed recruitment campaign designs. Young people helped guide the tone, language and look and feel of our campaign and to produce a film to support the advertising campaign. It focused on the qualities people who have experience of children's hearings would like to see in Panel Members and the impact they can have.*

*During 2020, ahead of the January 2021 campaign, we again worked with a group of young people with lived experience of the hearings and/or care system to build on the 2019 campaign. The group, together with the Communications Team, made decisions on the types of people and occupations to be featured on the marketing material.*

Area Support Teams are working hard to increase, improve and embed the engagement of young people into the local recruitment process. They have produced a step-by-step guide about how to include young people and have incorporated it into the Recruitment Guidance Toolkit, a working document used to support recruitment at a local level. Involving young people in the recruitment of Panel Members has been identified as an area for development and is an integral part of our new Children's Rights and Inclusion Strategy.

### *Involving young people in local recruitment*

*In some of our Area Support Teams, young people have provided invaluable input in developing, delivering and evaluating information evenings for potential new volunteers. They have helped decide what the focus of group discussions should be, participated in group discussion activities, sat on interview panels, scored and selected interviewees, and attended local welcome evenings for new trainee Panel Members.*

*Young people were also central in developing a young person's training course with the Children's Hearings Scotland Learning Academy, to support young recruiters involved locally.*

The views of children and young people with experience of the hearings and/or care system play a central role in the training we deliver at both a national and local level. Young people have contributed to designing and delivering our revised national programme of pre-service training for trainee Panel Members.

## *Young people's involvement in training our new volunteers*

*Based on the suggestions made by children and young people, we revised the pre-service training we provide including new timings and changes to the order of the delivery of material. It also includes a new section where some of the young people act out a simulated hearing. By sharing their experiences of the hearings system with trainee Panel Members, young people help ensure Panel Members understand how their decisions impact on lives.*

Children and young people have also been involved in delivering local learning and development programmes across our Area Support Teams.

## *Young people's involvement in local learning and development programmes*

*East Renfrewshire Area Support Team have involved young people, sometimes in partnership with their local Champions Board, in various local learning and development events, where Panel Members talked openly with them to gain a better understanding of their experiences and of what they want from a hearing. These events have covered topics such as intensive support, advocacy and early intervention.*

*Central and West Lothian Area Support Team has worked with young people on effective communication training. In one event, five young people delivered a hard hitting sketch on their experiences of the hearings system. They also worked with West Lothian's 'Having Your Say' group and Falkirk Champions Board to enable young people to express their views of hearings and the qualities they felt Panel Members should have.*

## Cluster (ii): Summary of evidence

- Our values, vision and mission
- Our legislative and operational framework
- Statutory functions data- continuity requests
- Practice and Procedure Manual
  - Minimising barriers within hearings
- Our equalities work:
  - Development and implementation of, and reporting on, equalities outcomes<sup>23</sup>
  - Equality Outcome Action Plan
  - Equality Impact Assessments – guidance and templates
  - Launch of online Equality, Diversity and Inclusion course for staff and volunteers
- Panel Member training delivered on:
  - ACES; Neglect; Contact; Child development; Improving outcomes for children and young people; Effectively communicating with children and young people; Managing conflict within hearings.
- Collaborative working- active contributions to:
  - the Children’s Hearings Improvement Partnership (CHIP)
    - Advocacy and legal representation at hearings
    - BME and LGBTI work streams
  - the Youth Justice Improvement Board
  - the Independent Care Review
  - Children’s Hearings Advocacy Expert Reference Group
  - the Improvement Board Hearings Management Group
  - the Scottish Government working group to implement the new Age of Criminal Responsibility (Scotland) Act 2019
  - Reframing Care Advisory Group
  - Local authorities
- Consultation response to the Children (Scotland) Bill (29 November 2019)
  - support for increased voice of child, advocacy, welfare reporters, language change, and consideration of sibling relationships
- Consultation and involvement with children and young people
  - Our Hearings, Our Voice
  - internships
  - redesign of our Panel Member recruitment campaign
  - the design, delivery and evaluation of training for Panel Members
  - internal working groups, including the Rights & Inclusion Working Group
  - giving feedback on the CHS website
  - contributing to the drafting of the Business and Corporate Parenting Plan
- Panel Profiles and model hearing rooms
- Performance monitoring measures:
  - KPIs; Strategic outcomes; Panel Practice Advisors; Community Survey; Staff Survey

<sup>23</sup> [chscotland.gov.uk/resources/equality-and-diversity/](https://chscotland.gov.uk/resources/equality-and-diversity/)

# Cluster (iii): Civil rights and freedoms

This section covers Articles:

- 7- birth registration, name, nationality and care;
- 8- protection and preservation of identity;
- 13- freedom of expression;
- 16- right to privacy;
- 17- access to information and mass media;
- 37- inhumane treatment and detention;
- 39- recovery and rehabilitation of child victims.

How CHS contributes to Article 28 (right to education) is set out in Cluster (vii)- education, leisure and culture.

Articles 14 (freedom of thought, conscience and religion) and 15 (freedom of association) do not directly apply to our duties.

Panel Members are making decisions that, as far as possible, mean that children know - and are cared for by - their parents. (Article 7)

CHS Children's Rights and Inclusion Strategy

Panel Members are making decisions that mean children can preserve family relations [without unlawful interference]. (Article 8)

CHS Children's Rights and Inclusion Strategy

Under Article 7 every child has the right to be registered at birth, have a name and nationality and, as far as possible, to know and be cared for by their parents. This is supported by CHS activity and one of the fundamental principles of the hearings system is that 'parents are usually the best people to bring up their own children and should be encouraged and enabled to do so wherever possible'.<sup>24</sup> Where it is not possible for a child to stay with their parents, the hearing will make decisions that support them to have a fulfilling and positive childhood. Hearings must listen and take account of the views of both children and their parents when making decisions about who should care for them.

Under Article 8 every child has the right to an identity and that their name, nationality and family relationships should be protected. In the hearings system a child has a legal right to maintain personal relations and direct contact with his or her parents when separated from one or both of them. There is a legal requirement for all hearings to consider arrangements for the infant, child or young person and their parents to spend time with each other, either face-to-face or in other ways (such as through telephone calls or letters).

*At 31 March 2020, of the 8,875 children and young people with a Compulsory Supervision Order in place, 45% were residing with a parent or relevant person and a further 19% with a friend or relative."*

*- SCRA Statistical Analysis  
2019/20*

Sometimes concerns about a child's welfare may mean that time spent with one or both parents has to be restricted or regulated. However, even if it is decided that a child should be

24 Practice and Procedure Manual, p171.

cared for by somebody other than one or both parents, the hearings system still promotes a child's right to family time unless it is not in their best interests.<sup>25</sup>

Although there is no statutory requirement for a hearing to think about arrangements to help maintain relationships between brothers and sisters when making decisions, Panel Members should have access to information about a child's relationships with their siblings and give careful consideration to how these can be maintained and protected.

We ensure all Panel Members are aware, through their training and our Practice and Procedure Manual (which contains a dedicated chapter on Important Relationships), that maintaining and supporting parental and wider family relationships when a child is separated from family is essential for a wide range of reasons, including the preservation of a child's sense of identity.

Our response to the Children (Scotland) Bill 2019 expressed support for the Scottish Government's proposals to ensure local authorities give as much priority to planning and maintaining relationships between separated brothers and sisters when they look after children, as they do for those between parents and children.

CHS has also expressed support for measures to improve arrangements around protecting and promoting relationships between brothers and sisters through our work with the Independent Care Review's group on championing the rights of brothers and sisters in care away from home and our membership of the Stand Up for Siblings group.<sup>26</sup>

Arrangements to maintain and promote family relationships are also discussed below in relation to Article 37 (inhumane treatment) and in Cluster (v)- Family environment and alternative to care, Article 9 (separation from parents).

Children are free to express their thoughts and opinions at a hearing through the media of their choice. (Article 13)

CHS Children's Rights and Inclusion Strategy

We actively encourage and engage with children and young people to gather their thoughts and opinions about the children's hearing system to help improve their experiences. (Article 13)

Article 13 states that every child must be free to express their own thoughts and opinions and to seek, receive and impart information and ideas in any form or media of their choice. We provide information for children and young people in different formats and seek their views on what we produce.

Our Communications Outcomes commit to children and young people being able to participate in their hearings and having the opportunity to inform our practice and policy, as well as to providing communication that is accessible and easy to understand.

We publish information on our website specifically for children and young people, and those caring for children who are too young to express a view, making clear they have a right to talk and ask questions at their hearing, that they can bring somebody along with them to a hearing to support them (including a legal representative) and, that if they do not agree with

<sup>25</sup> Ibid,p262.

<sup>26</sup> Stand Up for Siblings is a group of organisations committed to supporting brothers and sisters to stay together or in touch when they enter care. It includes allies from The Care Inspectorate, Life Long Links and Barnardo's.

the reasons why they are at the hearing, they can safely voice this opinion.<sup>27</sup>

Children and young people can provide information to a hearing through the media of their choice. Some children may not want to give their views personally to Panel Members at a hearing and they should not be forced to do so. If any child or young person is uncomfortable speaking at the hearing, or has been excused from attending, they can choose to make their voice heard through a representative (such as a friend, social worker, advocacy worker, or Safeguarder) or through a different medium (such as drawings, video recordings, the All About Me form (issued by SCRA), or the Mind of My Own (MOMO) app, for example).

We inform children and young people about their right to appeal if they do not agree with the decision that has been made and their right to complain if they are not happy about the way they have been treated at their hearing. We recommend that children have support to help them through the complaints process.

Our Complaints Handling Policy and Procedure reflects our commitment to improving outcomes for children and young people across Scotland through listening to feedback and reflecting on our activities, giving us the opportunity to learn and improve. It helps us keep children, young people and families at the heart of the process and to maintain the high standards of conduct required to ensure the best possible outcomes for infants, children and young people.

We are continually working towards improving how children and young people can learn about what we do and how they can express their views about CHS. Examples include the changes we have made to our website, which contains a specific section for children and young people, and our increased use of Facebook, Instagram and Twitter social media platforms.

We have used a range of measures (such as surveys, focus groups, Smiley Terminals, consultations and involvement in our internal working groups) to seek children and young people's views about operational matters that affect them.

### *Smiley terminals*

*'Smiley Terminals' have been trialled in four hearing centres (Alloa, Falkirk, Livingston and Stirling) to gather children and young people's views about their experiences around attending a hearing. We look forward to continuing this trial once social restrictions allow.*

<sup>27</sup> [chscotland.gov.uk/children-and-young-people/attending-a-children-s-hearing/](https://chscotland.gov.uk/children-and-young-people/attending-a-children-s-hearing/)

## Panel Member profiles

Panel Member profiles were introduced as a result of listening to the voices of children and young people. Most Panel Members now provide a photo or an avatar of themselves, along with a brief description of who they are and what they like doing. These are placed outside the hearing room for children and young people to look at before their hearing. They help to personalise the panel and to introduce the members in a child-friendly way and enable children and young people to see who they will be talking to once they enter the hearing room and help put them at ease.

A pilot was held in Aberdeen in 2017 and 75% of children, young people and their families found the profiles helpful. We have started to roll these out at all hearing centres to help children and young people feel more comfortable when attending.

Panel Members recognise that children have a right to privacy. It is important that people attending a child's hearing are only there because it is essential. (Article 16)

CHS Children's Rights and Inclusion Strategy

Article 16 gives every child a right to privacy and to have their private, home and family life protected. Hearings can sometimes involve a large number of people because, in addition to the child or young person, a number of individuals have a right and/or a duty to attend (such as their parents or representative) and other people involved in a child's life may also attend. This can be intimidating for the child or young person and prohibit effective participation so we do all that we can to ensure that people are not attending the hearing unnecessarily:

- Our guidance states the Panel chairing member 'must take all reasonable steps to ensure the number of persons present at the hearing is kept to a minimum'<sup>28</sup>;
- Those who do not have a right to attend can only attend at the discretion of the chairing member if it is deemed necessary for the proper consideration of the matter before the hearing or if granted permission by the chairing member and the child and relevant person do not object.

Journalists have a right to attend a hearing but they may be excluded from any part of the hearing where it is necessary to obtain the views of the child, or if the presence of that person is causing, or is likely to cause, significant distress to the child. While legislation gives journalists a right to attend a hearing, it also protects the child or young person's privacy by preventing them from publishing any information that is likely to identify a child, their address or school.

Sometimes a hearing decides that information about a child or young person should remain private, for example, where they live or go to school. If a hearing makes a decision that means a child or young person is to move to an address other than their home and it is confident that disclosing information about the whereabouts of the child or other information is likely to cause significant harm to the child then a 'non-disclosure request' can be made to prevent this information being seen by others<sup>29</sup>.

*"In 2019, 843 children had a non-disclosure order attached to either an interim order or CSO"*

*- SCRA Statistical Analysis 2019/20*

28 Practice and Procedure Manual p.75.

29 Ibid. p.232.

We ensure all Panel Members are aware of and trained in the importance of how information is stored, shared and disposed of, so as to protect the privacy of children, young people and their parents and carers. (Article 16)

Panel Members have access to sensitive information about children, young people and their families so that they can carry out their role as decision-makers. A key responsibility of all members of the CHS community is to keep information safe.

Our pre-service training for Panel Members emphasises the importance of keeping information safe and how to manage and dispose of case papers to protect the privacy of children, young people and their families:

- papers should be kept securely, in a locked case, and when travelling to a hearing they should be kept close to the person at all times or placed within the boot of a car;
- any notes made by Panel Members to aid their participation in the hearing must be destroyed immediately after the hearing;
- any notes made before a hearing that cannot be handwritten must not be saved or retained on any device and should not contain any reference to a child's name, date of birth or other identifying information about the child and family. They should be deleted immediately after the hearing.

All members of the National Team and volunteer community are required to undertake, and to pass, mandatory on-line Information Governance training. They are also required to undertake refresher training every two years. The training focuses on keeping information safe, by ensuring all information is stored, used and shared appropriately, and on cyber awareness and security. CHS updated this training course to ensure compliance with the introduction of the new EU General Data Protection Regulations in May 2018.

CHS has procedures in place to protect personal information and ensure any breaches of practice are addressed quickly and formally through reporting to the Information Commissioner's Office (ICO). We have introduced an Information Security Matrix for use by local Clerks when they are alerted to or become aware of an information security incident. Panel Members have to report any such incidents to the National Team straight away.

We provide information about the hearings system in a range of formats so that all children attending hearings are fully informed and feel comfortable about what is happening. (Article 17)

Article 17 states that every child has the right to reliable information from a variety of sources and that information should be provided in a way that children understand. It also aims to ensure children are protected from materials that could harm them.

Our **Communication Outcomes** commit us to making sure our communications are accessible and easy to understand. We provide information about CHS and the hearings system on various platforms and in a variety of formats. We recognise that children and young people have different learning styles and abilities and we try to ensure our communications are accessible to all. To help us achieve this, we have involved young people in designing our published reports.

Our website provides children and young people with information about attending a hearing, including what happens, what their rights are and who can help them prepare for a hearing.

We have increased our use of social media, such as Facebook, Instagram and Twitter, to make it easier for children, young people and their families to access information about CHS.

Panel Members are making decisions that do not unlawfully or arbitrarily deprive children of liberty, and that this is only used as a measure of last resort and is for the shortest appropriate period of time. (Article 37)  
CHS Children's Rights and Inclusion Strategy

Article 37 includes a child's right to be protected from cruel or degrading punishment and states that a child should only be arrested, detained or imprisoned as a last resort and for the shortest time

The hearings system is welfare rather than punitive in its basis. The principle of minimum intervention- that 'an order is only to be made if it is considered better for the child than if no order were made' – is at the core of Panel Member decision-making.

If Panel Members decide that an order is required, it must specify how long it will last if it is to be legally binding. The key timescales attached to some of the decisions that can be made by hearings are:

- Compulsory Supervision Order – it can last for a maximum of one year, or to the child's 18th birthday, whichever is earlier. Panel Members may decide that the circumstances of the case require an early review before the end of the order;
- Interim Compulsory Supervision Order – it can last for a maximum of 22 days, or less if one of the following comes first- the date of the next hearing; the disposal of a proof application by the Sheriff; or a day specified in the order;
- Medical Examination Order – it can last for a maximum of 22 days, or less if one of the following comes first: the beginning of the next hearing or a day specified in the order.

Although any orders made by a hearing automatically expire on a young person's 18th birthday, a hearing should not terminate a Compulsory Supervision Order without a clear plan setting out how the child will receive any necessary support, supervision or guidance in the future.

*"At 31 March 2020, the majority of children and young people on a Compulsory Supervision Order had been on one for 2 years or less (30% for less than a year and 22% between 1 and 2 years)."*

*- SCRA Statistical Analysis 2019/20*

Hearings can make decisions that restrict the liberty of a child or young person but these are only made as a last resort and in a small proportion of cases. In order to implement such decisions, strict legal tests need to be made applied and Panel Members have to explain how these have been met<sup>30</sup>. If considered to be in the child's best interests, the hearing could decide, for example, to impose a Movement Restriction Condition, send the child to live at a residential school or in secure accommodation. If a child goes to live in secure accommodation, a review hearing has to be held within three months of the Compulsory Supervision Order being made.

CHS recognises that any decision to restrict a young person's liberty is significant and the impact is wide ranging. These options are not considered punishments but ones that best address the needs of some young people who may require intensive support or require restrictions to keep them, and others, safe. Only a small proportion children in the hearings

30 Children's Hearings (Scotland) Act 2011, s83(6).

system have their liberty restricted. Most orders that are made support children to stay in their own home.

If a child or young person is not happy with the decision of a hearing, they have the right to appeal against it, normally within 21 days.

*“In 2019/20, 44% of children and young people who appealed had the Children’s Hearings decisions overturned.”*

*- SCRA Statistical Analysis 2019/20*

*“At 31 March 2020, of the 8,875 children and young people with a Compulsory Supervision Order in place, only 3% were in a Children’s Unit and 2% in a Residential School.”*

*- SCRA Statistical Analysis 2019/20*

Even if they do agree with the decision made, they still have the right to request another hearing within three months of the decision being made. If it is decided that a young person needs to go to live in secure accommodation, a review hearing will automatically be arranged by SCRA’s Principal Reporter to be held within three months of the decision.

Panel Members are making decisions that ensure that even when a child or young person is deprived of their liberty they are not deprived of contact with their family except in exceptional circumstances to keep the child safe. (Article 37)

Article 37 also states that children should be treated with respect and care and should be able to keep in contact with their family. This is supported by the Children’s Hearings (Scotland) Act 2011, which stipulates that every hearing making or continuing an order must consider whether to include a ‘direction of contact’ between the child and any person or class of persons.

We recognise the importance of children and young people remaining in touch with their families and significant others and Panel Members will always make decisions that help maintain relationships if it is in the child or young person’s best interest. The need to safeguard and promote the welfare of the child throughout their childhood is the paramount consideration when making decisions about ‘contact directions’.

*“95% of volunteers say CHS is respectful: treating children, young people, their families, partners and each other with care and consideration.”*

*- 2019 Community Survey*

Effective arrangements that allow children and young people to keep in touch with their family can help maintain relationships that are important to the child or young person; promote the child’s sense of identity and links with their racial, cultural and religious heritage; support the child to make sense of events in their life; give the child reassurance about another person’s wellbeing, health or safety; and, provide information about birth family members<sup>31</sup>. Keeping in touch with family can take many different forms (such as face-to-face meetings, talking on the phone or online, through letters and emails), the appropriateness of which depends on the individual circumstances of each child.

31 Ibid. p263.

Our pre-service training for new volunteers covers the role and importance of maintaining family relationships and, in addition, all Panel Members are required to undertake a stand-alone Contact module.

*“From its launch in September 2019 to March 2020, 519 volunteers had completed our Contact course.”*  
- Learning Academy

How CHS contributes to maintaining and promoting family relationships is also discussed in at Cluster (v)- Family environment and alternative to care, Article 9 (separation from parents).

Panel Members are making decisions that promote recovery and social integration of child victims of neglect, exploitation or abuse. (Article 39)

CHS Children’s Rights and Inclusion Strategy

Some children and young people who come to hearings have experienced adverse childhood experiences (ACES), including neglect, exploitation or abuse by those people who are supposed to be caring for them. Article 39 states that children who have suffered in such ways should receive special support to help them recover their health, dignity, self-respect and social life. While we do not directly provide services to aid recovery and social integration, Panel Members make decisions that help children and young people access the support and services they need from other organisations and individuals.

*“In 2019-20, 4,230 children were referred to a hearing due to lack of parental care, and 1,138 because they were victim of a schedule one offence.”*

- SCRA Statistical Analysis  
2019/20

Panel Members are trained to recognise signs of adverse childhood experiences, understand the impact on infants, children and young people and how to make the best decisions to meet their needs. In addition to national training delivered through our Learning Academy (for example, courses on Neglect, Child Development and ACES), our Area Support Teams have also run development sessions on topics such as trauma informed practice and trauma and attachment in young people.

*“Between April 2019 and March 2020, 1,007 volunteers completed our training on neglect and 1,075 on ACES.”*

- Learning Academy data 2019/20

Both at a national and local level we are now increasing our focus on training and development around trauma informed practice and resilience.

## Cluster (iii): Summary of Evidence

- Our legislative and policy framework
- Our values, vision and mission
- Practice and Procedure Manual
- Pre-service training for new Panel Members
- Training modules for Panel Members on:
  - Contact; ACES; Neglect
  - Pre-service training covering attachment, neglect, exploitation and sexual abuse
- Training for staff and volunteer community
  - Information Governance (Data Protection Act; Data security and cyber awareness; GDPR)
- Active participation in:
  - the Independent Care Review;
  - Improvement Board Hearings Management Group;
  - the Scottish Government working group to implement the new Age of Criminal Responsibility (Scotland) Act 2019
- Membership of Stand Up for Siblings
- Partnership working through the Area Support Improvement Partners
- Response to the consultation Children (Scotland) Bill (November 2019)
- CHS website : Children and Young People – What are your rights at a children’s hearing?
- CHS Communication Outcomes
- CHS Complaints Handling Policy and Procedure
- Panel Member Profiles
- Increased use of social media through Facebook, Twitter and Instagram
- On-line surveys, Smiley Terminals and Comments Trees
- Consultation on a joint Data Protection Impact Assessment with SCRA
- Data Review of IT governance and security needs
- Implemented the EU GDPR
- Involvement of children and young people in the development of organisational reports
- Consultation feedback from children and young people about our website
- Worked with website developers to ensure website was fully accessible.

# Cluster (iv): Violence against children

This section covers Article 19 – protection from all forms of violence, abuse and neglect.

Articles 37 (no child subject to cruel, inhumane and degrading treatment) and 39 (recovery and rehabilitation) are covered in Cluster (iii)- Civil rights and freedoms.

Article 28(2) (school approaches to managing behaviour and discipline) does not apply to CHS activity.

Panel Members are making decisions that protect children from all forms of violence, abuse, neglect or poor treatment by anyone caring for them. (Article 19)

CHS Children's Rights and Inclusion Strategy

We ensure all chairing Panel Members are trained in how to manage conflict within hearings so has to protect children from any aggressive or violent behaviour when attending their hearing. (Article 19)

Article 19 states that children should be protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.

All infants, children and young people who come to children's hearings are, in law, deemed to be in need of care and protection. Many have experienced or are at risk of adverse childhood experiences. The grounds on which children are referred to hearings include:

- lack of parental care;
- being a victim of a schedule one offence;
- having a close connection to a schedule one offender;
- living in the same household as a child of a schedule one offender;
- being exposed to people whose conduct is likely to be harmful to a child;
- having a close connection with a person who has carried out domestic abuse;
- having a close connection with a Sexual Offences Act offender;
- where the child's conduct is harmful to their self or others.

Panel Members are trained in how to recognise signs of crisis within families, and where there may be violence, abuse and neglect, understand the impact and ensure the decisions they make protect infants, children and young people from further harm. In addition to our national training programme, Area Support Teams run local learning events on topics such as domestic violence and abuse.

Any decisions by the hearing will only be made after they have taken into account the views of those experiencing the violence, abuse and neglect. If it is in the infant, child or young person's best interests to do so, Panel Members may decide to:

- continue a Child Protection Order that is in place to protect a child from actual or potential harm and neglect;
- limit or prohibit contact with individuals who place them at risk of abuse, violence or neglect;
- move a child or young person to a safer home environment; or
- prohibit the disclosure of an address if they think disclosing this is likely to cause significant harm to the child.

Sometimes children and young people can pose a risk to others by being violent or abusive

themselves. Hearings can make decisions that protect others, including other children, from the impact of such behaviour.

*“In 2019-20, 1,440 children were referred to a hearing because their conduct was considered harmful to themselves or others”*

CHS and SCRA, are responsible for making sure infants, children and young people are protected from violence or any other form of harmful behaviour when they attend a hearing.

*- SCRA Statistical Analysis 2019/20*

As SCRA is responsible for providing the premises for hearings, it is the responsibility of the Children’s Reporter to make appropriate arrangements to make sure that the hearing is safe for all participants and to respond to any concerns identified before, or during, the hearing, including potential threats of violence.

Panel Members also play a role in ensuring children and young people are safe within their hearing. Although a relevant person has a right and a duty to attend all stages of a children’s hearing, Panel Members may decide to exclude any relevant person and/or their representative from a hearing if satisfied that:

- exclusion 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.

If a relevant person who has abused a child attends a hearing, Panel Members must ensure seating is arranged within the hearing room to create as much distance as possible between them and the child or young person and they should ask the child if they are comfortable with the seating arrangements.

All chairing Panel Members are required to have completed training on managing hearings. This includes how to deal with difficult situations, such as how to resolve conflict between participants, and how to have difficult conversations effectively. This helps ensure infants, children and young people are safe and protected within the hearing room.

Our Practice and Procedure Manual contains a section on managing complex hearings, with parts dedicated to enhancing Panel Members’ understanding of domestic abuse and coercive control and how it can affect children and families who attend children’s hearings.

## Cluster (iv): Summary of Evidence

- Children’s Hearings (Scotland) Act 2011
- Practice and Procedure Manual
- National training on:
  - ACES; Neglect; Effectively communicating with children; Managing Conflict in Hearings; Management of Hearings.

## Cluster (v): Family environment and alternative care

This section covers Articles:

- 9- separation from parents
- 20- children deprived of a family
- 21- adoption
- 25- review of treatment in care
- 27- adequate standard of living.

Article 19 (protection from all forms of violence) is presented in Cluster (iv)- Violence against children and Article 39 (recovery and rehabilitation) is presented Cluster (iii)- Civil rights and freedoms.

This section does not reference Articles 5 (parental guidance and a child's evolving capacity), 10 (family reunification), 11 (abduction and non-return of children), and 18 (parental responsibilities and state assistance) as they do not directly apply to CHS' duties.

Panel Members are making decisions that do not separate children from parents unnecessarily and all interested parties are given the opportunity to make their views known. Decisions should also not deprive regular direct contact with parents unless in the child's best interest. (Article 9)

CHS Children's Rights and Inclusion Strategy

Article 9 provides that children must not be separated from their parents against their will unless it is in their best interests and, if they are separated, they have a right to stay in contact unless it could cause them harm. CHS activity in relation to this Article is similar to that reported for Article 37 in Cluster (iii) – Civil rights and freedoms.

All Panel Members' decisions are guided by CHS' overarching principles - the need to safeguard and promote the welfare of the child throughout their childhood is the paramount consideration; the child must be given the opportunity to express a view and this view must be taken into account in line with the child's age and maturity; and an order is only to be made if it is considered better for the child than if no order was made.

While it is preferred that a child or young person is cared for by their parents, sometimes it is in their best interests to live with someone else. This might mean living with extended family members (kinship care) or foster carers, or living in residential or secure care. However, before any decision is made about where a child or young person is going to live, Panel Members will always take their views into account.

If Panel Members decide that it is in the child's best interests to be separated from their parents they have a legal duty to consider what arrangements should be put in place to help maintain relationships. Where possible, Panel Members' decisions support children and young people and their families to meet together or to communicate in other ways if this is not possible.

All Panel Members receive training about the importance of having formal arrangements in place to enable children and young people separated from their parents to be able to communicate with them, either through meeting them face-to-face or speaking over the phone or online, for example. This communication plays a critical role in maintaining relationships, promoting a sense of identity and providing reassurance about others' wellbeing, health or safety.

Our Learning Academy provides a wide range of courses that highlight the importance of maintaining relationships, covering issues such as attachment, arrangements for family time, and, more recently, permanence. Local Area Support Teams have run additional learning and development events, for example, on Permanency Planning and PACE.<sup>32</sup> Panel Members are further supported by our Practice and Procedure Manual.

Panel Members are making decisions that help ensure children who cannot be looked after by their families can access protection and assistance from public services, including alternative care. (Article 20)

Article 20 states that if a child cannot be looked after by their immediate family, they should be given special protection and assistance, including being provided with alternative care that is continuous and respects the child's culture, language and religion.

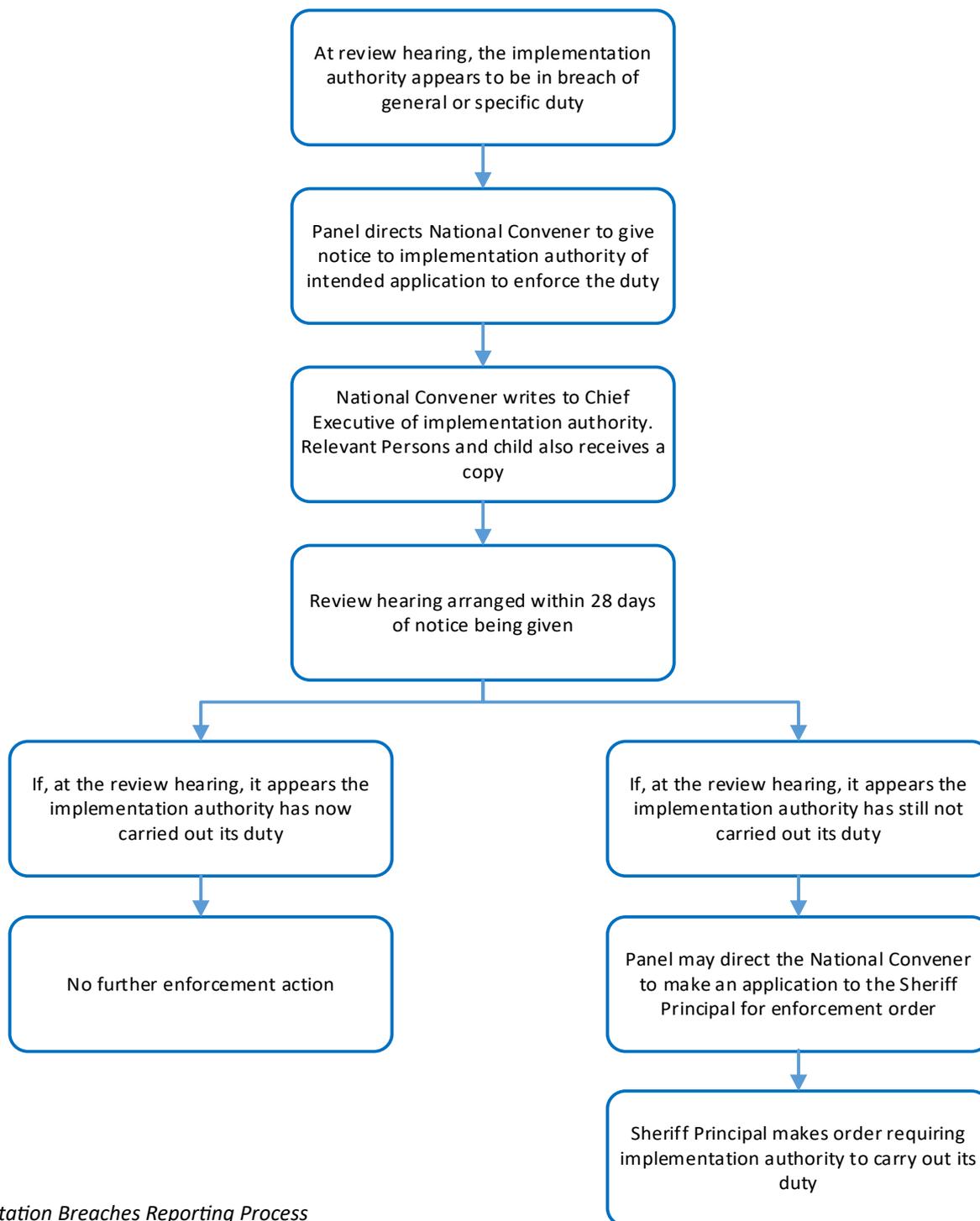
Although CHS has no control over the services provided for children and young people that attend hearings, the decisions Panel Members make can impose a duty on local authorities to implement the terms of a Compulsory Supervision Order. It may become clear, for example at a review hearing, that something other than the measure of supervision directed at a hearing has happened. The implementation authority may have taken other action and may appear to be in breach of a duty – either general or specific – placed on them by a children's hearing. In these circumstances, section 146 of the 2011 Act allows a hearing to direct the National Convener to take action to enforce the authority's duty.

*“During the period 2017-20, three requests to serve notice were made,*

*- CHS Annual Reports, 2018-19 & 2019-20*

Any implementation breach is potentially serious. It may indicate that an infant, child or young person is not receiving the support that a hearing has decided is necessary in their best interests. It is important to remedy that breach. A summary of the process used by Panel Members and the National Convener is given below:

<sup>32</sup> PACE is the Permanence and Care Excellence Programme run by CELCIS.



*Implementation Breaches Reporting Process*

Panel Members ensure that adoption is only considered as a last resort for children and young people and only if it is in their best interest to do so. (Article 21)

Article 21 ensures the process of adoption is lawful and safe and prioritises the best interests of the child. Any recommendation for adoption coming before a hearing will have been based on a comprehensive social work assessment that has already been presented to the local authority Adoption and Permanence Panel. The hearing’s role is to provide advice to the Sheriff and local authority as to whether it supports this course of action for a child or young person. Support for adoption will only be given if it is considered best for the child not to

*“In 2019-20, 699 hearings were held to give permanency-adoption advice, representing 2% of all hearings”*

*- SCRA Statistical Analysis 2019/20*

live with one or both parents for the rest of their childhood.

Pre-service training for new Panel Members includes a section on permanence and some Area Support Teams have run local learning and development sessions around these issues (for example, on Adoption and the Law and Fostering and Adoption). From Autumn 2020, we introduced a new national training course on permanence.

Panel Members participate in the periodic review of care ensuring people keep checking if children and young people feel safe and healthy. (Article 25)

CHS Children's Rights and Inclusion Strategy

If a hearing decides a child needs to live away from home for their care or protection, according to Article 25, they have a right to regular review of their treatment, the way they are cared for and their wider circumstances.

A Compulsory Supervision Order should last only as long as is necessary and every child with an order will have this reviewed by a hearing at least once a year. Panel Members then decide whether it should be continued, varied or terminated.

Although Compulsory Supervision Orders usually last for one year, if there is good reason, they can be reviewed earlier. A child or young person, and all relevant persons, may request a review of a Compulsory Supervision Order after three months and at any time thereafter. The implementation authority may request a review at any time.

Although it is important to regularly review Compulsory Supervision Orders, unnecessary additional review hearings can be unsettling for children and families, sometimes adding to uncertainty about what is happening.

If a hearing decides that a child needs to live in secure accommodation, a review hearing must be held within three months of the Compulsory Supervision Order being made.

As noted above in relation to Article 20, if a local authority fails to implement the terms of a Compulsory Supervision Order, the hearing can make a request to serve notice on the implementation authority.

Panel Members are making decisions that help secure the standard of living and conditions necessary for child development. (Article 27)

CHS Children's Rights and Inclusion Strategy

Under Article 27, every child has a right to a standard of living that meets their physical and social needs and supports their development. While CHS is not directly involved in service provision, Panel Members make decisions that help children and young people access support and services to help ensure they are living in a caring and loving environment, which is of a standard that lets them grow and flourish, as well as promoting recovery and social integration.

We train Panel Members so they can confidently identify, and understand the impact of, inadequate standards of living, neglect, exploitation and abuse and make decisions that help a child to thrive.

In addition to training provided through our national programme, our Area Support Teams run local training and development events, often involving external practitioners, on topics such as ACES, resilience and neglect and grounds for referral.

## Cluster (v): Summary of Evidence

- Children's Hearings (Scotland) Act 2011
- Overarching principles
- Practice and Procedure Manual
- Implementation Breaches Reporting Process
- National Learning Academy training:
  - Pre-service training (including permanence and attachment)
  - ACES; Contact; Neglect; Resilience in looked after children
- Local learning and development sessions
- Active contribution to Child Protection Improvement Programme

# Cluster (vi): Basic health and welfare

This section covers:

- Article 23- children with a disability
- Article 24- health and health services
- Article 33- drug abuse

Article 6 (life, survival and development) is covered in Cluster (ii) – General Principles and Article 27 (adequate standard of living) is covered in Cluster (v) – Family environment and alternative to care.

Articles 18 (parental responsibilities and state assistance) and 26 (social security) do not apply to CHS activity.

Panel Members treat children who have a disability with dignity and make decisions that promote self-reliance and participation in the community. (Article 23)

CHS Children's Rights and Inclusion Strategy

Article 23 states that any child with a disability has the right to a full and decent life with dignity and additional support. As expressed through our values, vision and mission, we aim to support all children, including those with disabilities.

Panel Members are expected to treat all people with respect and to be polite and considerate, and offer assistance and communicate effectively with anybody at the hearing with a disability. They must ensure that everybody coming to a hearing has the same opportunity to participate and be heard. They are also expected to be aware of, and respond appropriately to, differences in cultural views of disability<sup>33</sup>.

Children, and others, attending hearings can have a wide range of disabilities and we have worked to remove barriers within hearings. So that every child and young person feels comfortable and able to participate freely, we try to ensure everybody feels welcome, included and informed when attending a hearing . For example, we have:

- worked alongside SCRA to redesign hearing rooms, ensuring they are fully accessible and child and autism friendly;
- introduced Panel Member Profiles, to reassure those children who may be anxious about who they will be speaking to at their hearing and what they look like;
- provided options for alternative methods of communication for children who are non-verbal (such as sign language interpreters, the use of drawings, whiteboards or flashcards);
- trained our volunteer community in how to minimise barriers; and
- updated the Practice and Procedure Manual to include dedicated sections on disability (including how best to communicate about disability and the impact of sensory impairment) and autism.

*It is important not to assume that you know what the disability is or how it impacts on the life of the individual. Many different conditions can present in similar ways, and equally the same diagnosis can affect different people in different ways. Reports prepared for the hearing (in particular social work, education or health reports) should include information about the child or adult's diagnosis and how this affects them. If this information is limited, Panel Members should ask the participant (if appropriate) and relevant adults (professionals, carers) to share how this impacts upon the child/adult.*

*Some disabilities are 'invisible' – they are not immediately obvious when you are speaking to the person, but they may still face challenges in communicating with you. Relate to the individual person and respond to their individual needs.*

Practice and Procedure Manual v.3.0, p.249

Some children and young people, particularly those with autism, may benefit from seeing the hearing room before other participants arrive, to familiarise themselves with the room and choose where to sit. Though our new Practice and Procedure Manual, we encourage Panel Members to invite the child or young person to see the room when they first arrive and ask if there are any aspects of the room they are not happy about or any behaviours that they would prefer not to happen. Children and young people on the autistic spectrum are encouraged to bring any support aids, such as a fidget toy, to the hearing that might help them to focus and lessen their anxiety.

CHS has an increasingly strong focus on equality, diversity and inclusion and this is reflected in:

- the setting up of, and actions taken by, our Equality, Diversity and Inclusion Working Group, such as developing our equalities outcomes;
- equalities being incorporated into Panel Member, Area Support Team and National Team training;
- our use of Equalities Impact Assessments (EqIAs); and
- the publication of our performance against our equality outcomes.<sup>34</sup>

We have also tried to expand the ways in which children and young people can contact us through improving website accessibility and increased use of social media platforms. In 2019-20 we rolled out the first aspects of our new digital system, which over time will allow children and young people and their families to communicate more easily with Panel Members, tell CHS how it is doing, keep up to date with their hearings, and explore how they could attend using video conferencing technology.

Some Area Support Teams have also run local learning and development sessions, such as those on Disability Awareness and Autism Spectrum Disorder.

To reinforce the importance of behaving respectfully to people with disabilities, CHS is a Disability Confident employer. We hope to improve the diversity of both our workforce and volunteer community.

Panel Members are making decisions that help children who have medical and health needs that are not being met by those who care for them to access the services they need. (Article 24)

<sup>34</sup> [CHS Equality mainstreaming report, 2018-20](#); [Equality outcomes report 2019-20](#).

Under Article 24, children have a right to the best possible health. Sometimes children and young people who come to a hearing are not being adequately looked after and, more specifically, they are not receiving the health care that they need. Although CHS does not directly provide any health services, the decision a hearing makes can help ensure children and young people access the medical and health services they need.

A hearing can also make a Medical Examination Order if it considers the child to have an unmet, physical or psychological, medical need. A Medical Examination Order can authorise any of the following measures:

- the child attends or lives at a specified clinic, hospital or other place;
- a specified local authority arranges a medical examination of the child;
- non-disclosure (either directly or indirectly) of the place where the child is to stay;
- a secure accommodation authorisation;
- a contact direction;
- any other condition to ensure the child complies with the order.

Whether included as part of a Compulsory Supervision Order, Interim Compulsory Supervision Order or Medical Examination Order, all medical measures require the child or young person's consent to any medical examination or treatment if the medical practitioner is satisfied the child is of an age and level of maturity to understand the nature and possible consequences. There may also be circumstances where a medical practitioner is unwilling to undertake the examination, or considers that parental consent is required. Guidance on Medical Examination Orders is provided to Panel Members in the Practice and Procedure Manual.

Panel Members are making decisions that protect children from the illicit use of drugs. (Article 33)

CHS Children's Rights and Inclusion Strategy

Article 33 protects children from illegal use of drugs. Under Section 67 of the Children's Hearings (Scotland) Act 2011, children and young people can be referred to a hearing for a number of reasons related to drug misuse. They can be referred because:

*"In 2019-20, 39 children were referred to a hearing due to the misuse of drugs"*

*- SCRA Statistical Analysis 2019/20*

- they, or the adults responsible for caring for them, are involved in, or at risk of, substance misuse;
- they are likely to suffer unnecessarily, or the health or development of the child is likely to be seriously impaired, due to lack of parental care which may result from their parents addiction to drugs, as well as other factors; or
- a schedule 1 offence<sup>35</sup> has been committed in respect of the child, including harmful behaviours, such as giving the child drugs.

The training we provide ensures Panel Members have a sound understanding of the substance misuse issues, an awareness of the impact on infants, children and young people and that they are able to make decisions that protect infants, children and young people from further negative impact. Our pre-service training covers substance misuse amongst children and carers and our Area Support Teams have run local learning and development sessions on Alcohol and Drugs and Children Living with Parental Substance Use, for example.

<sup>35</sup> This refers to offences listed in Schedule 1 of the Criminal Procedure (Scotland) Act 1995. These include neglect, sexual abuse, physical assault and other harmful behaviours, such as giving a child drugs.

## Cluster (vi): Summary of Evidence

- Children's Hearings (Scotland) Act 2011, s67(2)
- Practice and Procedure Manual
  - Medical Examination Order Guidance
  - Minimising barriers in hearings;
- National Learning Academy training courses
  - Pre-service training course
  - Courses on: Effectively Communicating with children and young people; ACES; Equality, diversity and inclusion; Neglect
- Local learning and development sessions
- Introduction and roll out of Panel Member Profiles
- Roll out of new digital system
- Equality, diversion and inclusion workstream
- Disability Confident Committed certification

# Cluster (vii): Education, leisure and culture

This section covers Article 28 – right to education.

Article 30 (children of minority or indigenous groups) is discussed in Cluster (viii) – Special protection measures.

Articles 29 (goals of education) and 31 (leisure, play and culture) do not directly apply to CHS activity.

Panel Members are making decisions that do not deprive children of education and encourage regular attendance at school. The way hearings operate do not deprive children of education. (Article 28 )

CHS Children’s Rights and Inclusion Strategy

Panel Members are making decisions that support children and young people to access their right to education. (Article 28)

Under Article 8, every child has the right to an education. Most children and young people attending hearings are of school age and one reason for being referred to the children’s hearings system is because they are not attending school regularly.

*“In 2019-20, 1,027 children were referred to a hearing for failure to attend school without reasonable excuse. The average age was 13.2 years”*

*- SCRA Statistical Analysis 2019/20*

Panel Members’ decisions can help young people to access their right to education, allowing them to develop to their fullest potential and achieve their aspirations . Although hearings do not provide services, their decisions can include measures to increase attendance or access alternative education provision.

Even if a child or young person has been excluded from school or has withdrawn prior to being excluded, an education authority has a duty to continue to provide education for them. A hearing can decide that an education authority is failing to comply with this duty and can require the National Convener to refer the matter to Scottish Ministers. However, this is a rare occurrence, with only one case during the period 2017- 2020.

Although hearings are relatively short, they do take place during school hours. This means that some children and young people miss lessons and can feel stigmatised<sup>36</sup> and we are working with our partner organisations to consider how we can reduce any negative impact on children and young people caused by the way hearings operate.

## Cluster (vii): Summary of Evidence

- Children’s Hearings (Scotland) Act 2011, s67(2)
- Statutory functions data
  - Referrals about excluded pupils
- Participation in the Independent Care Review

<sup>36</sup> The Promise, p39.

# Cluster (viii): Special protection measures

This cluster focuses on groups of children who are marginalised or find themselves in vulnerable situations and require extra help and protection. All of the children and families within the hearings system are considered to be in vulnerable situations.

This section covers Articles:

- 22- refugee children;
- 30- children of minority or indigenous groups;
- 32- child labour;
- 34- sexual exploitation;
- 36- other forms of exploitation;
- 40- juvenile justice.

CHS activity in relation to Article 33 (drug abuse) is presented in Cluster (vi) – Basic health and welfare. Articles 37 (no child subject to cruel, inhuman or degrading treatment) and 39 (recovery and rehabilitation) are presented in Cluster (iii)- Civil rights and freedoms.

Articles 35 (abduction, sale and trafficking) and 38 (war and armed conflicts) do not apply to CHS' work.

Panel Members are making decisions about children seeking refugee status in a non-discriminatory way and protecting rights when no parents can be found. (Article 22)

CHS Children's Rights and Inclusion Strategy

All our volunteer community receive training in equality, diversity and inclusion matters to enable them to confidently and fairly address the needs of all children, young people and their families. (Article 30)

CHS Equalities Outcome 4

Under Article 22, children and young people with refugee status are entitled to special protection and Article 30 includes the right to learn and use the language, customs and religion of their family. Our legislative and organisational frameworks are designed to ensure that all children and young people receive a consistent level of service and that everybody is treated according to their individual needs.

Panel Members make decisions which are in the best interests of all babies, infants, children and young people attending hearings, including those with refugee status. They are trained to support children and young people to fully participate in their hearings and ensure they are not discriminated against because of language, cultural or religious barriers.

Effective participation of children and young people is an essential component of the hearing. Panel Members can support a child or young person with refugee status by deciding to defer proceedings to arrange for an interpreter if it is apparent they do not have adequate language skills to participate or they would prefer to speak in their own language.

How CHS ensures all children and young people, including those with refugee status, do not experience discrimination within their hearings is found in Cluster (i)- General Principles of Implementation, Article 2 (non-discrimination).

Panel Members are making decisions that protect children from economic exploitation or harmful work. (Article 32)

Panel Members are making decisions that protect children from sexual exploitation and abuse. (Article 34)

Panel Members are making decisions that protect children from any exploitation that may harm their welfare. (Article 36)

All from CHS Children's Rights and Inclusion Strategy

Under the Convention children are protected from child labour and sexual and other exploitation (Articles 32, 34 and 36). Under S67(2) of the Children's Hearings (Scotland) Act 2011, children and young people can be referred to a hearing for a variety of issues including:

- a schedule 1 offence has been committed in respect of the child;
- the child has, or is likely to have, a close connection with a person who has committed a schedule 1 offence;
- the child is, or is likely to become, a member of the same household as a child in respect of whom a schedule 1 offence has been committed;
- the child is being, or is likely to be, exposed to persons whose conduct is (or has been) such that it is likely that:
  - (i) the child will be abused or harmed; or
  - (ii) the child's health, safety or development will be seriously adversely affected
- the child has, or is likely to have, a close connection with a person who has committed an offence under Part 1, 4 or 5 of the Sexual Offences (Scotland) Act 2009.

CHS' national training programme ensures Panel Members have an understanding of exploitation issues, an awareness of the impact on children and young people, and are able to make decisions that protect them from further negative impact. This is supplemented by local learning and development sessions run by Area Support Teams (for example, on Child Sexual Abuse, Sexual Exploitation and Grooming of Young People, Committed to Ending Abuse, Young People with Problematic Sexual Behaviour, and Child Protection).

Panel Members are treating children in conflict with the law with dignity and dealing with them in a manner appropriate to their wellbeing. (Article 40)

CHS Children's Rights and Inclusion Strategy

Article 40 of the Convention states that children should be dealt with outwith the criminal justice system and that the response should be appropriate to their wellbeing and proportionate to their circumstances and offence.

Under S67(2) of the Children's Hearings (Scotland) Act 2011, children and young people can be referred to a hearing if the child has committed an offence and, under the Age of Criminal Responsibility (Scotland) Act 2019, only if the child is at least 12 years old. Prior to 2019, children could be referred to a hearing on offence grounds from the age of eight years old.

*In 2019/20, 2,834 children were referred to the Reporter on offence grounds.*

*- SCRA , Statistical Analysis 2019-20*

## *Raising the age of criminal responsibility*

*CHS supported the Scottish Government's proposal to raise the age of criminal responsibility (from eight to 12) in Scotland, as shown in our formal response to the consultation and by having an active role in the implementation working group responsible for planning the implementation of the Age of Responsibility (Scotland) Act 2019. We also made sure all our staff and volunteers were aware of these changes by providing a new training course about the Act.*

At any hearing it is important that the child or young person knows how information about grounds for referral and any related supporting evidence may be used in the future and this is particularly important in relation to offence grounds. Within the hearings system, measures are in place to ensure children and young people understand the legal effect of accepting offence grounds for referral or having these established in court (for example disclosure of this information to prospective employers or other organisations in later life through a Protecting Vulnerable Groups or Disclosure check).

Our Practice and Procedure Manual states that:

- The Children's Reporter will provide information to the child and relevant persons about the legal effect of accepting offence grounds in writing when arranging the hearing;
- The chairing member of the Panel should check this was received and understood before entering any discussion;
- A hearing can be adjourned or deferred to another day to allow the young person time to discuss the consequences or to seek appropriate advice about the issue from a solicitor;
- There are significant consequences of accepting an offence ground. Panel Members should never encourage a child to accept a ground or statement of fact<sup>37</sup>.

The hearings system is welfare based and tries to keep children and young people out of the criminal justice system if at all possible. It is rooted in a recognition that young people who are convicted of offences or engage in high risk behaviours have experienced adversity or have themselves been victims of offences, are often in vulnerable situations and have unmet needs for care and protection. The focus of the system is the welfare of the child, as set out in the first of our overarching principles 'the paramountcy principle'.

The hearings system is underpinned by the Kilbrandon principles which include:

- 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 criminal justice system;
- 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;
- 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 cooperation of families in resolving problems;
- hearings must seek, listen to and take account of the views of children and their parents in reaching decisions;
- compulsory measures should be beneficial with decisions taken by children's hearings

<sup>37</sup> Practice and Procedure Manual, p.93

- being in the best interests of the individual child;
- children should remain in their own community wherever possible and service provision should be integrated;
- other rights, such as the right to appeal and to review of compulsory measures, are built in to the system<sup>38</sup>.

We work collaboratively with, lead and influence partner agencies in the children’s hearings system and wider community, to ensure children and young people are not brought into the criminal justice system unnecessarily. At present, a child can only be referred to a hearing up to the age of 16 although the system also accommodates 16 and 17 year olds who are already subject to a Compulsory Supervision Order. However, once a child turns 18, their order will be automatically terminated. CHS has expressed its support for the Scottish Government’s policy intention to widen access to the hearings system to young people aged 16 and 17 who are not currently eligible for referral to the Reporter.

Article 40 also states that children have a right to legal assistance. Under the 2011 Act, a child or young person is entitled to engage a solicitor at any point of the hearings process and they can also apply to the Scottish Legal Aid Board for legal assistance.

Legal assistance for representation at a hearing is available to all children and young people if it is to ensure their effective participation. Sometimes arrangements for legal representation have not been made before the hearing and if the panel feel a child or young person may need a solicitor to ensure effective participation, and that the person is unlikely to make the arrangements themselves, they may direct the Children’s Reporter to provide the child’s contact details to the Scottish Legal Aid Board, who will then facilitate contact with a Solicitor. In such cases, the hearing has to be deferred to another day.

Legislation (ss191,192 of the Act) also states that a child is automatically entitled to legal aid when:

- an application is made to the Sheriff for variation or recall of a Child Protection Order;
- a hearing is to be held on the second working day after a Child Protection Order has been granted;
- a hearing, or pre-hearing panel, considers that it may be necessary to make a Compulsory Supervision Order including a secure accommodation authorisation; or
- a hearing is arranged after the child is detained in custody by the Police.

Legal aid is also available for the child for any subsequent deferred hearings.

If a child or young person is not accompanied by a solicitor at a custody hearing, Panel Members should ask the child whether they have been given the opportunity to be represented. If they have not, Panel Members should consider a short adjournment of the hearing to allow arrangements to be made, if possible.<sup>39</sup>

If a child or young person has been prosecuted in a criminal court and been found guilty of, or pleaded guilty to, an offence, a hearing may be asked to provide advice to the court about what it should do as a result of the offence. If it is a Sheriff court case, it must ask the hearing for advice if the child is already subject to an order however it is at the discretion of the court if it is a serious offence being dealt with in the High Court.

*“In 2019-20, we held 148 hearings to give criminal advice”*

*- SCRA Statistical Analysis  
2019/20*

<sup>38</sup> Practice and Procedure Manual, p.171

<sup>39</sup> Practice and Procedure Manual, p.119

We have partnered with the Scottish Legal Aid Board to provide Panel Member training about working with legal representatives in hearings.

The key decision for the hearing when a court seeks advice is whether they consider it appropriate for the court to send the offence to a hearing for a decision to be made or whether it is more appropriate that the child is sentenced by the court. The juvenile justice system in Scotland promotes children's hearings as preferable to courts as a way of dealing with most young people who have committed an offence.

## Cluster (viii): Summary of Evidence

- Children's Hearings (Scotland) Act 2011, s67(2)
- Overarching principles
- Our Values, Vision and Mission
- Our legislative and operational framework
- Practice and Procedure Manual
- Our equalities work:
  - Equality Impact Assessments – guidance, templates and training
  - Development and implementation of equalities outcomes
  - Reporting on our performance through our equalities reports<sup>40</sup>
- Response to the Scottish Government's consultation on raising the age of criminal responsibility
- Introduction of training course on new Act across the whole CHS community
- Active membership of the Scottish Government working group to implement the 2019 Act
- Began work to consider compulsory measures for 16 and 17 years olds
- Partnership working to improve experiences for minority groups:
  - Children's Hearing Improvement Partnership- BME workstream
  - Independent Care Review
  - Youth Justice Improvement Board/ Youth Justice Strategy
  - Child Protection Improvement Programme
  - Secure Care Strategic Board Youth Justice/ Secure Care Review
  - Improvement Board Hearings Management Group
- Partnership work through Area Support Improvement Partners
- Training course delivered on:
  - Pre-service training- substance misuse and sexual abuse
  - ACES; Effectively communicating with children and young people
- Launch of a new online Equality, Diversity and Inclusion course
- Local learning and development sessions

40 [chscotland.gov.uk/resources/equality-and-diversity/](https://chscotland.gov.uk/resources/equality-and-diversity/)

# Gaps in our Activity and Evidence and Improvements Required

While much of our activity helps promote and protect children's rights, we know we can do better. We need to be ambitious, forward thinking and challenging. We have already demonstrated our commitment to this through Our Strategic Outlook 2020-2023 and our Children's Rights and Inclusion Strategy and we will work to embed a rights-based approach to all our work. In the short-term, the delivery of our work will be adapted to take account of the Coronavirus pandemic.

In Our Strategic Outlook 2020-2023 we set out what our priorities for the next three years will be and children's rights are at the centre.

## Our strategic themes:

- better protect and uphold the rights of children;
- deliver consistently high quality hearings;
- continue to build an effective, empathic panel, that is well supported;
- be well informed and influential in our environment and communities.

## Our Vision:

- a forward looking and evolving children's hearings system, working as a community to ensure infants, children and young people are cared for, protected and their views are heard, respected and valued.

## Our Purpose:

- to equip our volunteer community to engage positively with infants, children, young people and families; ensuring children are loved, cared for, respected and feel part of decisions taken to improve their lives.

Moving forward our new *Children's Rights and Inclusion Strategy* is at the core of our work and it puts the child and young person's voice at the centre of all we do.

## Our children's rights and inclusion vision

- we want a children's hearings system that listens, acts and places real value and weight to the views of infants, children and young people;
- at Children's Hearings Scotland inclusion will be central to our core values as an organisation. Expression and inclusion of views will be evident in all that we do and will influence how we work internally and with partners;
- infants, children and young people will feel respected, valued, heard and included across all aspects of the children's hearings system.

There are three key areas which CHS can work on to see our vision for Scotland's infants, children and young people realised:

- **Children's hearings:** Children and young people must feel that it is *their* hearing, where they can choose how to share their views about their lives. Panel Members' interaction and communication with children and young people will be as inclusive as possible, recognising and understanding trauma and its impact, as well as being open to the ways

that children and young people may choose to share their views.

- **Area Support Teams:** volunteer Area Support Teams support the delivery of the National Convener's functions through providing local support to Panel Members. They will work to ensure the views of people with lived experience of the hearings system contribute to recruiting and supporting of local volunteers.
- **Children's Hearings Scotland:** this relates to the successful functioning operations of CHS as an organisation. CHS will role model and demonstrate the ways in which the methods of consultation, engagement, participation, co-design and co-production can be used to improve our everyday work and practice.

People with lived experience of the hearings system have helped us identify six 'pillars of inclusion' that are considered essential in reaching the three outcomes described above.

Children feel able to share their views openly, freely and honestly.

Children know that their views are given real weight and listened to in decision-making about their lives.

Children feel empowered and have ownership of their rights.



As an organisation we will take a rights based approach to everything we do and we will embed Children's Rights and Wellbeing Impact Assessments (CRWIA) in our working practices to assess how our work impacts on children and young people and their rights.

We aspire to take a lead role in driving positive change within the hearings system. We will listen to and take seriously recommendations for change voiced by children and young people involved with CHS and from elsewhere (for example, Our Hearings, Our Voice's Calls to Action and The Promise). We will take a proactive role in changing the language we use to better reflect our ambitions and give children and young people the respect they deserve.

We have already started to introduce new training courses (including those on advocacy,

permanence and children's rights) that will help ensure Panel Members take a rights based approach to their decision-making. During 2021 we will provide support to Panel Members to prepare for changes in siblings' rights to participate in hearings.

## The Promise

In February 2019, the Independent Care Review published its findings in The Promise report. This articulates a vision for Scotland's care system that takes the voice of lived experience of hearings and/or care as a key influence and places rights at its centre. Some of the key findings for the hearings system to address are:

- The care system must protect and uphold children's rights, decriminalise children and destigmatise care;
- Active listening to children and young people must be at the heart of the hearings system;
- There must be a culture change in decision-making, with children and young people being included in decisions about their lives and being able to bring people they choose to places where decisions are being made;
- The care system must protect relationships important to children, including those with brothers and sisters;
- Every participant in the children's hearings system, must be trauma informed and aware;
- Help must be delivered much earlier and the hearings system must plan to shrink and specialise;
- The role of volunteers must be assessed and considered.

The findings were welcomed by the National Convener and it was made clear that CHS intends to take its responsibility for transformational change seriously:

"The [Independent Care Review](#) has been the most incredible journey. A genuine root and branch review with the voice of care experienced children and young people at its heart. I'm so grateful to everyone who has shared their experiences and helped to shape these recommendations. Panel Members are committed to improving outcome every day for infants, children, young people and their families. They are always listening, always learning and dedicated to improving their practice.

I welcome the commitment to retain the Kilbrandon principles. We will now look in depth at each of the areas highlighted by The Promise which relate to the children's hearings system. We recognise the opportunity for change and will work with our volunteers, children and young people to build solutions and deliver The Plan. We're committed to delivering The Promise." – Elliot Jackson, National Convener (5 February 2020)

## What CHS will do next to progress children's rights

How we will progress children's rights over the next three years is presented in the tables below. These reflect commitments we have already made in *Our Strategic Outlook 2020-23* and in our *Children's Rights and Inclusion Strategy*. We have identified how each of these relates to the UNCRC clusters.

We have begun work on our *Promise Programme* and this will identify the tasks and actions required to embed our four strategic themes and assess how well we are doing. As part of

this work we have developed 11 aims, which are also included in the Next Steps table below, and we are in the process of developing specific and measurable outcomes for each of these.

We know we need to improve the way in which we measure our performance in progressing children's rights. There are currently no nationally agreed indicators to monitor UNCRC implementation and we would welcome the opportunity to work with our partners on how these might be developed.

The initial focus of our *Promise Programme* will consist of three main components that ensure:

- Brothers and sisters are involved in hearings decision-making;
- Hearings embed a trauma informed response; and
- UNCRC implementation is evidenced across CHS' work.

We will also respond flexibly to any requirements to redesign our services that come from outwith our organisation.

People with lived experience will be at the heart of our Promise Programme. We will work at a national and strategic level, with The Promise, Our Hearings, Our Voice' and our Children's Rights and Inclusion Coordinator to implement our *Children's Rights and Inclusion Strategy*. At a local level, across our 22 Area Support Teams and the 32 local authorities, we will work with young people and carers who support the hearing system, champions boards and people who use our services to implement change that delivers a positive experience of children's hearings.

# Next Steps

From <i>Our Strategic Outlook 2020-23</i> We will...	Alignment to Clusters							
	i	ii	iii	iv	v	vi	vii	viii
<b>THEME 1: BETTER PROTECT AND UPHOLD THE RIGHTS OF CHILDREN</b>								
Ensure that our volunteers are trained in children’s rights and understand how to enable them.								
Ensure that children and young people are able to participate fully in our work.								
Use data and feedback to keep our approach to rights, and how they are exercised in hearings, under review.								
Introduce a framework for measuring our progress on children’s rights and the realisation of UNCRC within our work.								
Learn from, and work with, partners to adopt best practice in our rights work.								
Train our staff in children’s rights and how to embed them in our work.								
<b>THEME 2: DELIVER CONSISTENTLY HIGH QUALITY HEARINGS</b>								
Work with partners to increase the influence children and young people can have on hearings. We want this to lead to the delivery of co-designed hearings.								
Rationalise, and better use, the system of standards, codes and competencies in which we operate.								
Start to work with our partners to ensure that hearings are run with processes that do not cause delays or disruption.								
Undertake work focused on demonstrating and cementing acceptable hearings behaviours and conduct.								
Explore how hearings can work more effectively with the families of infants, children and young people.								
Ensure we promote dignity in hearings by understanding the impact of stigma in hearings and identifying ways to avoid this.								
<b>THEME 3: CONTINUE TO BUILD AN EFFECTIVE AND EMPATHETIC PANEL THAT IS WELL SUPPORTED</b>								
Begin our journey to fully embedding throughout our work an awareness of the impact of trauma.								
Actively seek to increase the number of Panel Members with lived experience of the hearings system and strive for greater diversity of the Children’s Panel.								
Continue to develop the training offered through the CHS Learning Academy to ensure Panel Members feel confident in their skills and abilities.								
Contribute actively to any national review of the role of volunteer decision makers as suggested by the Independent Care Review.								
<b>THEME 4: BE WELL INFORMED AND INFLUENTIAL IN OUR ENVIRONMENT AND COMMUNITIES</b>								
Introduce and embed a new digital system that will allow us to record and review data.								
Ensure that our changing environment and developing knowledge is having an impact internally – by using it to train our staff and volunteers.								
Ensure our staff and volunteer leaders are trained to understand improvement and implementation science.								

Actively seek opportunities to engage more closely with research about the hearings system, care and child development.								
Introduce systems that allow our work to be influenced by lived experience of hearings at all levels.								
Engage actively in our strategic and operational environment – taking leadership spaces where we can to drive positive change.								

From our <i>Children's Rights and Inclusion Strategy</i>	i	ii	iii	iv	v	vi	vii	viii
<b>VIEWS</b>								
<b>SCOTLAND'S CHILDREN AND YOUNG PEOPLE HAVE A HEARINGS SYSTEM THAT WORKS FOR THEM</b>								
Children will have lots of ways to express their views which our Panel Members will be trained in how to understand and listen to in a communication friendly environment.								
We will support children's right to representation in helping them to share their views.								
We encourage all children where possible to attend their hearings. If they feel unable to attend, they will be supported to still have their views shared.								
We are committed to understanding the views of all children and will work with partners in learning how best to incorporate the views of children under the age of 5 years using a range of different methods.								
<b>THE CHILDREN'S HEARINGS SYSTEM IS DYNAMIC AND REFLECTIVE OF THE COMMUNITY WE SERVE</b>								
We will make sure that children and people with lived experience are included in developing, shaping, delivering and reviewing the work and values of CHS.								
People with lived experience of the hearings system will be included in all volunteer and staff recruitment. We recognise the invaluable experience that these individuals can bring to improving the children's hearings system for the better.								
<b>CHOICE</b>								
<b>SCOTLAND'S CHILDREN AND YOUNG PEOPLE HAVE A HEARINGS SYSTEM THAT WORKS FOR THEM</b>								
Our hearings work for children, giving the choice for children to be included in deciding where and when their hearing takes place that is suitable and meets their needs.								
Children will have the choice to be included in all aspects of the children's hearings system, not just the hearing itself, and they will be supported and encouraged to do this with equality and respect. They can choose if and how they want to use and bring their lived experience.								
<b>WE ARE PROUD OF SCOTLAND'S UNIQUE CHILDREN'S HEARINGS SYSTEM</b>								
We embrace the range of inclusion that can be possible in a hearing, and for children who choose to, can have the opportunity to co-design their own hearing.								
We will work with partners in creating a way forward in co-designing hearings and if needed, appropriate and with evidence, we will challenge legislation to enable change.								
We will ensure children's choice of how they share their views can be possible by working with partners on the logistics of the hearings space that will allow, for example, technology to be accessible if children want to express their views that way.								

We will support the increase of advocacy that is available for children attending hearings and ensure children are aware of this choice for them.									
<b>RELATIONSHIPS</b>									
<b>CHILDREN'S HEARINGS SCOTLAND UNDERSTAND THE IMPORTANCE OF RELATIONSHIPS FOR CHILDREN WHICH ARE BASED ON RESPECT, HONESTY AND TRUST</b>									
Panel Members are trained in how to listen and include children, recognising the challenges some children may face with communication and in recovering from trauma. They will embed a children's rights and child-centred approach during the child's hearing.									
We recognise the purpose and importance of having some of the same Panel Members at future hearings and will strive to achieve this by working with partners to provide this choice for children.									
We will clearly demonstrate and promote positive behaviours and expectations of Panel Members through our code of conduct, ensuring children feel safe and empowered within their own hearing.									
We will work with partners to ensure everyone attending a child's hearing understands how they should behave positively including family members and carers.									
<b>THE CHILDREN'S HEARINGS SYSTEM IS DYNAMIC AND REFLECTIVE OF THE COMMUNITY WE SEEK TO SERVE</b>									
We will ensure that children and people with lived experience of the hearings system feel empowered and connected to exert their influence using their personal experiences to improve the hearing's journeys for others through ongoing relationships with us.									
<b>COMMUNICATION</b>									
<b>THE INCLUSION OF CHILDREN THROUGH THEIR HEARINGS JOURNEY IS CLEARLY VISIBLE THROUGH OUR CORE VALUES</b>									
The inclusion and participation of children and people with lived experience of the hearings system must be the golden thread running through all everyday operational business at CHS. This will be supported by our Children's Rights and Inclusion Coordinator.									
All language used throughout the hearings process is accessible, communication friendly, and easily understood. Where this is not possible, everything is explained to the child in a developmentally appropriate manner. We will work closely with Scottish Children's Reporters Administration (SCRA) in making this happen.									
Everyone involved in the hearings journey with children and people with lived experience understand and respect their preferred pronouns.									
<b>THE CHILDREN'S HEARINGS SYSTEM IS DYNAMIC AND REFLECTIVE OF THE COMMUNITY WE SEEK TO SERVE</b>									
There are clear expectations and boundaries across CHS and Area Support Team activity so that children and people with lived experience know what they can expect from our organisation in all situations.									

ACTION								
WE ARE PROUD OF SCOTLAND'S UNIQUE CHILDREN'S HEARINGS SYSTEM								
We will report to Scottish Government on how we realise children's rights in the work we do. We will explicitly demonstrate the ways in which various Articles of the UNCRC are supported until there is no longer a need, with a children's rights-based approach being embedded in everyday practice and throughout training.								
In line with our values, all action within CHS relating to our Corporate Plan, Annual Business Plans and strategy documents will also illustrate the development of our inclusive work with children, across organisational work, Area Support Team operations, and Panel Member interactions with children in their own hearings.								
CHS, with our colleagues in the CHS Learning Academy, will provide training for all staff and volunteers ensuring a children's rights-based approach and inclusive practice is used in making sure children are able to share their views including those children with any communication needs.								
SCOTLAND'S CHILDREN AND YOUNG PEOPLE HAVE A HEARINGS SYSTEM THAT WORKS FOR THEM								
We will make it clear for children on the roles, responsibilities and expectations of all the different people who attend the child's hearing.								
Feedback loops to monitor, review and evaluate each 'pillar of inclusion' will exist and collate the information, data and views recorded in different ways, to continually improve what and how we do it.								
SPACE								
SCOTLAND'S CHILDREN AND YOUNG PEOPLE HAVE A HEARINGS SYSTEM THAT WORKS FOR THEM								
During the hearings journey, children are offered timely, safe and inclusive physical and psychological spaces to ensure they have their views shared and their needs met								
THE CHILDREN'S HEARINGS SYSTEM IS DYNAMIC AND REFLECTIVE OF THE COMMUNITY WE SEEK TO SERVE								
We will have people with lived experience of children's hearings with specific roles within our Area Support Teams. In creating this space for people to occupy, we can continue to have lived experience at the centre in all we do.								
Children are included in shaping and influencing the spaces that children occupy, whilst never deviating from the experience of those people who have attended children's hearings. This will be supported by the work of our National Panel of Advisors within CHS.								

From CHS' our Promise Programme	i	ii	iii	iv	v	vi	vii	viii
We will set measurable and specific outcomes around ensuring...								
THEME 1: BETTER PROTECT AND UPHOLD THE RIGHTS OF CHILDREN								
Records of proceedings record the views of the child (and, for non-verbal children, their carers) on the child's plan presented to the hearing and the decision made in a hearing.								
Panel Members are observed to evidence a rights based approach to involving the young person in their hearing.								
THEME 2: DELIVER CONSISTENTLY HIGH QUALITY HEARINGS								
Children and young people are offered a choice in how they participate in their own hearing (face-to-face, virtually or by other means).								

Children have a Panel Member who is consistent for any hearing after the first hearing.								
<b>THEME 3: CONTINUE TO BUILD AN EFFECTIVE AND EMPATHETIC PANEL THAT IS WELL SUPPORTED</b>								
Active Panel Members are competent in virtual, face-to-face and blended hearings.								
Panel Members have a proven understanding of the effect of trauma on child development and the role of this in hearings and decision-making.								
Panel Members feel their contribution is valued.								
<b>THEME 4: BE WELL INFORMED AND INFLUENTIAL IN OUR ENVIRONMENT AND COMMUNITIES</b>								
Panel Members have a proven understanding of risk and assessment.								
Area Support Teams will be co-chaired by people with lived experience.								
Extra scrutiny is provided to children who have been looked after at home on Compulsory Supervision Orders for more than two years.								
Area Support Teams will be represented at corporate parenting boards as part of the multi-agency partnership.								

# Glossary

The following list provides simple and quick explanations of some of the more complex terms used in this report.

## Adjournment

A short break during the hearing.

## Area Support Teams (ASTs)

Teams who provide support and guidance to panel members at the local level. There are 22 of these across Scotland, with 400 volunteer members.

## Child Protection Order (CPO)

A legal order made by a Sheriff in an emergency. It means the child will be kept in a place of safety away from home.

## Children's Reporter

The person who decides that a hearing is necessary and invites everyone to attend. They don't take part in the decision-making in a hearing.

## Compulsory Supervision Order (CSO)

A Compulsory Supervision Order is a legal document that means the local authority is responsible for looking after and helping the child. It can contain decisions that say where the child must live and other decisions that must be followed.

## Contact

Seeing members of your family (or people who are important to you) .

## Deferral

Where the hearing decides to delay making a decision to another day.

## Foster carer

Foster carers can look after children when their parents are not able to. The children stay with the foster carer in their home.

## GIRFEC

'Getting it Right for Every Child' is the way for families to work together with people who can support them such as teachers or nurses.

## Implementation authority

The local council who have to make sure the decisions made by the hearing happen.

## Interim Compulsory Supervision Order (ICSO)

A short-term decision when the hearing has decided to delay making a long-term decision to another day but some decisions couldn't wait. It might decide where the child lives or how often they see someone important to them.

## Learning Academy

Provides a range of training to ensure our volunteer community's learning is current and relevant for the role.

## Legal aid

Payment covering some, or all, of a person's legal expenses. This is managed by the Scottish Legal Aid Board (SLAB).

## Measures

The order says that something has to happen to support the child, the measures say what those things are. For example, it could be seeing family members more or less or saying where the child should live.

## Movement Restriction Condition (MRC)

An electronic tag which limits where a child can go at certain times. It can be a measure on a CSO or ICSO.

## National Convener

Leads and oversees the Children's Panel, at the moment this is Elliot Jackson. He is responsible for recruiting people to serve as Panel Members across Scotland, and making sure they have the right training and support to make sound decisions in the best interests of infants, children and young people.

## Non-disclosure request

When someone asks the hearing to keep some information from someone. There must be very good reasons.

## Panel Members

People who take part in children's hearings and make legal decisions about the care and protection of infants, children and young people. There are around 2,500 Panel Members in Scotland. Three Panel Members sit on each hearing.

## Panel Practice Advisors (PPAs)

Specially trained volunteers responsible for observing Panel Members hearings to ensure they are following correct legal procedures and are providing a high quality experience to children and families.

## Permanence

When a child has a stable, safe place to live without needing to come to children's hearings.

## Principal Reporter

The head Children's Reporter. Their responsibilities are carried out by local Children's Reporters.

## Proof

The Sheriff will read reports and hear evidence to decide if the examples in the statements of fact are true or false.

## Relevant person

Parents and other people who have a parental-type role in a child's life.

## Safeguarder

Someone who is independent can read the reports and speak to the child and any important people to make sure decisions are being made in the child's best interests.

## Schedule 1 offence

A physical, emotional or sexual offence against a child.

## Scottish Children's Reporter Administration (SCRA)

The Children's Reporter works for SCRA; they decide if a child might need a children's hearing and arrange children's hearing and send all the papers out.

## Secure authorisation

The decision of a hearing which allows a child to be placed in secure accommodation.

### Secure accommodation

A form of residential care which limits the freedom of children who stay there and offers intensive support.

### SHANARRI

Scotland has named eight areas of a child's life which can make their wellbeing better or worse. They are Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included, often called by the initials SHANARRI.

### Siblings

Brothers and sisters.

### SPSO

The Scottish Public Services Ombudsman.

### Statements of grounds

The legal reasons which the Children's Reporter writes explaining why a child has been referred to a hearing.

### Substance misuse

Regularly using anything which affects the way you think and act and adversely affects your health. This can be alcohol, illegal drugs, prescription drugs or solvents.



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