



28 April 2022

Siobhian Brown MSP
Convener of the Covid-19 Recovery Committee
By email

Dear Convener,

Re: Coronavirus (Recovery and Reform) (Scotland) Bill

I write to highlight an emerging issue regarding the operational capacity to deliver children's hearings, for the committee to consider as part of the ongoing work on the Coronavirus (Recovery and Reform) (Scotland) Bill.

Section 6(3)(a) of the Children's Hearings (Scotland) Act 2011 requires that every children's hearing must include "both male and female members of the Children's Panel". Unlike the requirement for a panel to include members local to the child, there is no flexibility for discretion where a mixed gender panel cannot be secured.

There have been longstanding concerns regarding the operational consequences and equalities compliance of this requirement. The Panel Member community is currently composed of around 1,500 women and 750 men. This means that meeting the requirement of section 6(3)(a) can be extremely challenging. This was recognised in the emergency legislation passed by the Scottish Parliament, which removed the requirement for mixed gender panels during the peak of the pandemic. This emergency provision expired on 30 September 2021, in anticipation of moving out of lockdown.

However, a combination of unpreventable pandemic related impacts on our Panel Member Community means the ability to provide panels in line with this gender requirement is now a critical concern. Our forecasting now shows that as a result of a combination of low numbers in our core community following pandemic disruption in 2020 and 2021, additional losses expected due to our reappointment schedule and low numbers of new recruits identifying as male, the ability to reliably ensure panels are available to make decisions for children and young people cannot be guaranteed. This is despite targeting significant resources towards people who identify as male in our 2022 recruitment campaign.

The Panel Member community go above and beyond on a daily basis to ensure that decisions can be made for children and young people in a way that complies with all legal requirements. However, the rigidity of Section 6(3)(a) creates a significant risk

Children's Hearings Scotland

3rd Floor, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE
t: 0131 244 3696 | Follow us    

Chair: Katharina Kasper **National Convener and Chief Executive:** Elliot Jackson

that a legally competent hearings may soon be unavailable when required by a child. For example, one local area reported that “Any reduction, even the smallest in our male panel member community will put significant strain on the capacity to provide and delivery the appropriate number of hearings required.”

Diverse representation on panels is and will continue to be an organisational priority for CHS. We believe that there is an opportunity to retain the policy in favour of diverse panels, while adding flexibility to the Section 6(3)(a) requirement through an amendment to the Coronavirus (Recovery and Reform) (Scotland) Bill. This would give children and young people, their families and Panel Members the security of legally sound hearings and legally competent decision making, as the CHS community recovers from the pandemic.

Children’s Hearing Scotland have shared information regarding these concerns with the Scottish Government as part of long running discussions regarding the operational capacity to deliver children’s hearings to meet the needs of children and young people in Scotland. Through this, we have developed an extensive bank of evidence about the impact of Section 6(3)(a), and the likely impacts of amending it by inserting the wording “as far as practicable” into this section, or words to the same affect.

This has included consultation with Panel Members, children and young people with experience of the children’s hearing system and an Equality Impact Assessment to explore the likely impact. Notably, our consultation with children and young people showed little demand to retain a strict requirement for mixed gender panels. Respondents noted that such strictness in legislation might actually be a barrier to trauma informed practice. Control, choice and flexibility to respond to individual circumstances would be preferable to those who we spoke with.

On this basis, I would seek the committee’s support for an amendment to this bill at Stage 2 in line with the wording above. I would be happy to share further detail with the committee should members require it. Similarly, I would be more than happy to discuss this further with any member who would like further background.

In the meantime, I hope this letter proves helpful in offering some background to the issue at hand and look forward to discussing this further with colleagues

Kind regards



Elliot Jackson

National Convener and Chief Executive

Children’s Hearings Scotland

3rd Floor, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE
t: 0131 244 3696 | Follow us    

Chair: Katharina Kasper **National Convener and Chief Executive:** Elliot Jackson