

STRENGTHENING FOR THE FUTURE: A CONSULTATION ON THE REFORM OF THE CHILDREN'S HEARINGS SYSTEM – SACP RESPONSE.

PART ONE: STRUCTURAL CHANGE, A NATIONAL BODY.

Role of the Scottish Government

Q1 What is your opinion on these proposals for Government's role in the future?

**Our main concern here is where the finances will come from to pay for all this.
How do we ensure the independence of panel members within this national body?
Who will decide the criteria for the recruitment of members to run this body?
Will it just increase bureaucracy?**

Role of local Government

Q2 What is your opinion on the proposals for local government's role?

**There is a role for the Scottish Government in specifying things like time off work for panel members ie there is a need for SG to be more pro-active in supporting panel members.
Local Authorities already have a role in promoting the CHS but not all authorities do this in an effective manner.
Might be ok to have finance centrally controlled but local training has to take into account the needs of the local area. So there should still be an element of this in any future set up.**

The New Body – the Children's Hearings Agency

Q3 We invite views on the nature, functions and title of the new body.

**Where do the Kilbrandon principles fit into this new body?
How are panel members to be monitored by this new body?
Panel member independence will be compromised.**

Q4 Do you have any thoughts on how the necessary separation ("firewalls") can be achieved in the structure and day to day business of the new body?

Panel members and Safeguarders should not be within this new body at all. This would be the most effective firewall. Even if proper firewalls were erected how can we, as panel members or safeguarders, demonstrate to the public that we are indeed independent if they see us as belonging to the same national body as reporters?

The Chief Executive Officer (CEO)

Q5 What are your views on the proposed role and functions of the Chief Executive Officer?

Why a CEO AND a President? Are their salaries coming from the present pot of money? How will they be selected and appointed? Will their background include a knowledge of the CHS?

However, at least there will now be one person at a national level for such matters as expenses etc taking them out of the remit of the local authorities.

Principal Reporter and Reporters

Q6 We invite comments on the options outlined. Do you have any other suggestions about how the concerns about separation of functions might be addressed? Are there other functions which need to be re-considered or re-allocated?

There is a need to differentiate between procedural advice and legal advice. There should not be a problem if the Chairman of the hearing asks the reporter's advice on a matter of procedure although hopefully this will be fairly rare. However, panel members are trained in legal matters pertaining to the hearings system and there should be no need to seek or be given legal advice from a reporter.

Having two teams of reporters would just complicate things immensely and still leave the CHS system open to charges that the panel were being guided or led by the reporters by their inputting legal advice.

President of the Children's Panel

Q7 What are your views on these proposals?

If the president is to determine the content of training and "best practice" then surely he or she must come from a hearings background?

Who exactly will be doing the recruitment/appointment of panel members/

How will this be devolved down to local level?

There could be potential conflict between panel members who are volunteers and paid staff who are monitoring them.

Safeguarders

Q8 What are your views on these proposals?

Do not change the current arrangements. How is safeguarder independence to be demonstrated?

PART TWO: POLICY AND LEGISLATIVE CHANGES

New Statutory system on the legal representation of children

Q9 We invite views on the best way to provide an appropriate, statutory scheme for legal representation of children and young people who are involved in the CHS.

More training is needed for the legal profession re the CHS along with greater awareness of it's ethos.

Code of practice is a good idea.

More awareness of children's needs required.

Importance of legal representation for custody hearings should be emphasised.

Withholding information provided by the child

Q10 What are your views on this proposal?

Excellent idea in principle but difficult to see how this can be put into practice without infringing parental rights and without giving grounds for appeal by not specifying the disclosure in the reasons.

Streamlining the establishment of the grounds for referral

Q11 What are your views on this proposal?

**Who is going to decide if a child is too young or immature to understand the grounds?
Consensus is that there should be no change other than the system should be streamlined.
There are vast differences in the speed of handling of proof grounds in different areas. A maximum turnaround time should be specified in the legislation.**

Procedural changes to the Children's Hearings System

Q12 Do you agree that these are area which should be addressed?

Agree with this.

Papers for children

Q13 Do you agree that the Scottish Government should bring forward such a provision in the draft Bill?

In favour of keeping the status quo and maybe the current system could be enshrined in the new legislation.

Reports also have to be written in more child friendly language.

Other legislative implications

Q14 Are there any other issues which you think might be addressed in the reform programme or proposed legislation?

Secure- a Hearing should have the right to send a child to secure rather than only being able to authorise secure. Decision should be binding.

Representation - How are panel members to be represented at a national level? There is a need for an organisation such as the SACP to which all panel members should automatically belong.

Safeguarders – Should remain within panel papers for as long as they are reports relevant (min 12 months).

Panel members There should be an independent body set up to deal with disputes between panel members and others.