

RESPONDEE INFORMATION FORM

Getting it right for every child:
Consultation on the draft Children's
Services (Scotland)

The logo for the Scottish Association of Children's Panels (SACP) is located in the bottom left corner of the page. It consists of the letters 'SACP' in a white, sans-serif font, with a white diagonal line striking through the 'A' from the top-left to the bottom-right. The logo is set against a dark blue square background.

SACP

A horizontal banner at the bottom of the page features a light blue background with a faint, white silhouette of several children holding hands in a circle. The text 'Scottish Association of Children's Panels' is overlaid on this banner in a white, serif font.

Scottish Association
of Children's Panels

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RESPONDEE INFORMATION FORM

Getting it right for every child: Consultation on the draft Children's Services (Scotland)

Bill

Please complete the details below and attach it with your response. This will help ensure we

handle your response appropriately.

Name: Mrs Margaret Easton

Organisation: Scottish Association of Children's Panels

Postal Address: Mrs M. Easton, Secretary

Fassiefern, Top Street, CONON BRIDGE, Ross-shire IV7 8BH

Consultation Title: Draft Children's Services (Scotland) Bill

1. Are you responding as: (please tick one box)

(a) an individual (go to 2a)

(b) **on behalf of** a group or organisation (go to 2d)

(c) both as an individual and on behalf of a group or organisation (answer 2a to d)

2a. Confidentiality: Individuals:

Do you agree to your response being made available to the public (in the Scottish Executive

library and/ or on the Scottish Executive website)?

Yes (go to 2b)

No (**go to 3**)

2b. *Where confidentiality is not requested*, we will make your response available to the public on the following basis (**please tick one** of the following boxes):

Yes, make my response, name and address all available

Yes, make my response and name available, but not my address

Yes, make my response available, but not my name or address

2c. It would be useful for us to know your professional background and whether you are a

young person. You do not need to provide this information, but it may help us respond to issues which are raised by different professional groupings. If you wish to provide information, please tick all that apply.

Is your professional background in (not compulsory):

Health

Education

Social Work

Voluntary Sector

Other

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Are you (not compulsory):

Under 18 years of age

18-25 years of age

26 or over

2d. Confidentiality: On behalf of groups or organisations:

Your name and address as a respondent organisation **will be** made available to the public (in the Scottish Executive library and/ or on the Scottish Executive website). Are you content for the text of your response to be made available also?

Yes

No

3. We would find it helpful to share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

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Consultation will last until **31 March 2007**. We welcome all contributions to help us produce more effective legislation. Please fill in the form below to record your views.

Other

views (in addition to the questions) would also be welcome. Please continue on a separate sheet if necessary. Copies of the completed form should be sent to:

Children's Services (Scotland) Bill team

Scottish Executive

2B (South)

Victoria Quay

Edinburgh

EH6 6QQ

Responses can be emailed to: gettingitrightforeverychild@scotland.gsi.gov.uk

Or an online response form is available at www.scotland.gov.uk/childrenservicesbill

Part 1: The draft Bill

Q1 Do you think that the concept of well-being in relation to the duties on agencies set out in sections 1 and 2 of the draft Bill is helpful?

Yes

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Do you have any comments?

Once again, the age of twelve is held to be the point at which a child is of sufficient maturity to form views. A similar view is taken in regard to receiving papers for a children's hearing and in relation to consenting to medical treatment. However the age of criminal responsibility remains unchanged at eight years. There would appear to be a major inconsistency in the way the law in Scotland deals with children in this respect.

Q2 Do you feel that the duties on agencies proposed in sections 1 and 2 of the draft Bill will ensure that all relevant agencies can and will act to so that children get the help they need when they need it?

No

Do you have any comments?

Although the intention is clearly to ensure that agencies are held to account it is not clear, as the proposals stand in this document, how duties and responsibilities will be allocated and by whom. It is therefore not clear that the proposals will ensure that agencies will act so that children can get help. Nor, given the shortfall in resources, does it ensure that agencies can act so that children get help they need when they need it.

Where a child has a supervision requirement there is no independent mechanism in place to ensure the supervision requirement is carried out until it comes back to a Hearing, which could be a year.

Where a child has expressed willingness to work voluntarily with support there is also a lack of independent assessment of the extent to which this is happening.

To ensure closer, independent monitoring of the system, and to help identify areas where additional resources are most urgently required, it may be that an independent agency should have the duty of overseeing both voluntary and compulsory support packages. The alternatives to this might include: ensuring that any professional working with a child on supervision should be able to call for a review of a supervision requirement at any time; imposing a duty on the Reporter to monitor those referrals which have been dealt with through voluntary measures, which would have significant implications for workload.

Q3 In your view, do the proposals in sections 2(5) and 5 of the draft Bill for recording agency decisions and actions and for a multi-agency action plan provide enough of a framework to deliver effective planning across agencies for the child and their family?

No

Do you have any comments?

It is not possible to give full backing to the proposals without more detailed information about the appointment of lead professionals and their powers to ensure efficient, cooperative working. Feedback from pathfinder projects should be available as part of the consultation process before enshrining these proposals in law.

Q4 It is the intention that the proposals in sections 4 and 5 of the draft Bill for collaboration of agencies will provide a robust but simple framework for agencies to work together locally. In your opinion, do you think that the framework will enable this to happen?

No

Do you have any comments?

See comments in Q3.

'So far as appropriate' is used twice in Section 4 of the Draft Bill regularly. Who would decide what is appropriate and how would this be done?

.

Q5 Are you content with the definition of relevant agencies (including parts of the voluntary sector) in section 7?

No

What characteristics should make an agency a relevant agency?

Any agency which can provide support for a child or can compel a child to access support.

If you are responding on behalf of an organisation, should your organisation be included

within the definition of relevant agencies?.

The Children's Hearing System should be part of interagency working. It is not clear from the current wording that this would be the case.

Q6 With regards to section 11, do you agree that the Principal Reporter should not be a member of the Administration (the Board) of the Scottish Children's Reporter Administration?

Yes **No** .

If your answer is no, please explain why.

Q7 The new power in section 12 for the Principal Reporter to appoint a representative if certain criteria are met is meant to safeguard the rights of those children who need such representation. Are you content with the introduction of this new power?

Yes

If your answer is no, please explain why.

Q8 In section 12 the criteria for legal representation is expanded to include the appointment of a legal representative where a Children's Hearing is likely to make a movement restriction condition. Are you content with the introduction of this new criteria?

Yes

If your answer is no, please explain why.

Q9 Section 14 introduces new provision to withhold information about the child where disclosure would be significantly against the child's interests. Are you content with this new provision?

Yes Training will be required on how to write reasons where a sensitive disclosure has been made.so that a future panel would have necessary information.

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If your answer is no, please explain why.

Q10 Are you content with the proposals in section 15 of the draft Bill to change the grounds for referral to the reporter and the Children's Hearing to reflect the needs of a child and the need for compulsion?

Yes .

Q11 The relevant situations in section 15 are intended to improve on the existing conditions in section 52(2) of the 1995 Act and to address possible gaps such as self-harm by a child and exposure to domestic abuse. Do you feel that the relevant situations are appropriate?

Yes

Do you have any comments?

Q12 In your opinion, do the provisions in section 16 of the draft Bill to expedite the

establishment of the situational condition where the relevant person accepts the condition but the child has not understood or is not able to understand provide adequate and appropriate protection for the rights of the child?

Yes

Do you have any additional comments on these changes?

Q13 In your opinion, do you feel that the proposals in section 17 for interim supervision requirements provide an appropriate additional option to a Children's Hearing when they are unable to dispose of a case?

Yes

Do you have any additional comments on interim supervision requirements?

We welcome the fact that some positive work can be started with a child prior to a full supervision requirement being implemented.

Q14 In relation to section 18, it is intended that any agency which is taking, or is expected to take, action in accordance with a supervision requirement should have a duty to take such action. It is also intended that a Children's Hearing may impose specific duties on an agency. A formal enforcement process will apply to breach of duties as is currently the case in relation to duties imposed on a local authority. The provisions in relation to duties set out in section 18, together with existing duties of a local authority, are intended to adequately and appropriately provide for duties to act in relation to a child subject to a supervision requirement. Do you think that they do so?

Yes

Do you have any comments?

Q15 In relation to section 20 on warrants, it is intended that section 66 will apply where there is an application to the sheriff under section 65. It is intended that section 69 will apply where the situational condition is accepted/established (and there is no current section 65 application). Section 45 and section 63 will continue to apply in their own particular circumstances. Further refinement to ensure this effect is intended. In your opinion or in the opinion of your organisation, will such an approach simplify warrant procedures?

Yes.

Do you have any additional comments on the proposed simplification of warrant procedures?

Part 2: Issues for consideration

Q16 The consultation document sets out a number of proposed changes to the Children (Scotland) Act 1995 arising from the Vulnerable Witnesses (Scotland) Act 2004. Are you content with these proposals?

Yes No

Do you have any further comment?

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Q17 For the small group of young people who continue to pose a risk to themselves or others, and **who cannot or will not engage** with services who are working to change their behaviour, we wish to explore further options to compel them to change their

behaviour. To secure continued support and intervention for young people involved in offending we would like to hear your opinions on:

- How we can best ensure that children's services continue to support young people who offend to cease offending and make a successful transition into positive adulthood?
- How we could formalise systems to ensure that this happens?
- How we might respond to the concerns of our communities in the best way to deal with the problem of persistent offending by young people?
- What, if any, legislative requirements do you believe would be required to deliver this?

Comment

There are a number of ways in which positive outcomes may be achieved with these young people, depending on individual needs. Early identification and intervention is crucial together with a variety of strategies. These might include community projects to redirect young people and encourage a more positive view of themselves and their communities; better funded and more accessible parenting projects; greater resources to deal with young people with drug misuse or mental health issues; more residential alternatives for young people for whom home and/or fostering cannot provide sufficient support; longer-term funding of successful projects.

For a small minority of persistent offenders there should also be additional disposals, perhaps available through referral to the sheriff at an earlier stage or as an alternative to ISMS e.g. community service activities.

Q18 The Scottish Executive is committed to promoting and supporting the rights of children and to reflecting the provisions of the UN Convention on the Rights of the Child in the development of policy and legislation. To ensure that we are effectively promoting and supporting the rights of children we would like your views on the following:

- The Bill as drafted is intended to improve children's rights in Scotland. Do you feel it will do so effectively?

There are still concerns that the significance of the Rehabilitation of Offenders Act is not adequately explained to young people facing offence grounds and questions about the length of time a police charge, which is denied or not brought to a hearing, remains on the record of a young person.

There needs to be clarity on the actions of interagency groups whose aim is to reduce referrals to the Reporter by drawing up plans for young people who are offending, making referrals to diversionary or restorative justice schemes. At present the young person does not attend the meeting and is only informed of the decision afterwards.

- Should we also consider a general duty on agencies working to meet the needs of children to also promote and support the rights of children?.

It would be beneficial if there were more children's rights officers to prepare children for hearings.

Q19 The Scottish Executive is committed to equality of opportunity for all regardless of race, religion or belief, disability, sexual orientation, age or gender, language, social origin or political opinion. Do you have any views on whether anything in the draft Bill will have a differential impact on equality communities?

No.

If yes, please could you explain why you think this might be the case

Q20 We would be grateful for views on what further legislative provision for information sharing beyond that proposed in the Protection for Vulnerable Groups (Scotland) Bill may be necessary to deliver the *Getting it right for every child* agenda.

Comment

Q21 Would amending the definition of a child 'in need' in the Children (Scotland) Act 1995 be helpful to the aims of *Getting it right for every child* without causing unwanted consequences?

Yes No

Comment

It would depend entirely on the nature of the amendment.

Q22 We would be grateful for informed comment on any or all of the matters discussed in the partial Regulatory Impact Assessment including views on any matters arising from the draft Bill which may (in your view) have cost implications.

Yes No

Comment

There are considerable potential training cost implications for professionals likely to be involved in interagency working and for those involved in the Childrens' Hearings System. E.g. non-disclosure of information disclosed at a hearing; interim supervision requirements; drawing up and interpreting the joint plan; structure for the appointment of a lead professional; training in the duties of a lead professional for health, education and social workers.

Many of the proposals would involve increased workload for local authority employees and SCRA to allow for additional interagency meetings and for satisfactory management and monitoring of interagency action plans.

In addition, the complex interagency planning has little point if interagency plans founder on a lack of necessary resources e.g. social workers, youth workers, restorative justice, family therapy, diversionary schemes, parenting classes, drug misuse and mental health resources.

Although we are generally in favour of the intentions of this draft Bill we would wish to be assured that the proposals will be adequately funded.

Q23 We are interested in any other views you have on both the content of the draft Bill consultation and on ways which we could make this type of exercise more accessible to a wider range of people in the future.

Comment

Content

We are in favour of allowing panel members to sit on hearings in more than one area.

The draft Bill asks for comment on proposed changes, some of which are already being tested in pathfinder projects. Although the intentions of the changes to the system may be laudable, it would have been beneficial to investigate whether some of the intended changes are workable in practice before making them legal requirements. If this has in fact been done, the results should have formed part of this consultation.

Consultation process

- The structure of the current consultation document makes it difficult to access and must as a consequence considerably narrow the range of respondees. A summary of proposed changes and their effects as an introduction, together with a section by section approach, bringing together proposed changes and explanatory notes on a single page, might have produced a far more coherent and accessible document.
- The consultation document also appears to have been sent out on a piecemeal basis, with some previous respondents not receiving a copy of the current consultation until much later than others.
- Similarly, the Wee Communicator, was not sent out in some areas until very late in the day, if at all. Local consultation with panel members has also been patchy.

- There are issues such as the continuity of panel members, timing and frequency of hearings for which it is felt legislation is unnecessary. However these directly affect panel members and *we wish panel members to be consulted as fully as possible on proposed changes in practice, both locally and through both national bodies, SACP and CPCG.*