

Children's Hearings Scotland Bill

A briefing from the Association of Directors of Social Work supported by COSLA

ADSW and COSLA support the majority of provisions in the Children's Hearings Scotland Bill which seeks to up-date and refresh the very good system we have for dealing with some of our most vulnerable children.

We do however have serious concerns about one aspect of the Bill, which deals with establishing a feedback loop of information to panel members.

As it stands, the Bill at section 173 is unworkable and would allow panel members who may not even be panel members anymore to receive confidential information about children under compulsory supervision orders. We agree that the Bill has to be amended and therefore support the government's amendment (No.98), but we are nonetheless very concerned that this amendment does not go far enough and leaves local authorities at the mercy of disproportionate demands by the National Convener to investigate and report on the individual outcomes of every child on a compulsory supervision order. While there is a need to assess the outcomes of the Children's Hearing System – this is not the way.

Context

ADSW and COSLA fully support the need for panel members to receive information about the effectiveness of the disposals they make. However, what started as an amendment to put in place a mechanism to inform good practice and panel member training has been expanded to place a requirement on local authorities to provide detailed information on individual children.

The children's voluntary organisations intended this to be useful as a way of monitoring outcomes, but as drafted, it is clear that the requirement will fulfil neither the Scottish Government's intentions, nor those of children's organisations. There are also major concerns about confidentiality of individual children's personal details being used in this way.

The Scottish Government's proposed amendment puts forward a better position than the Bill as amended at Stage 2, but ADSW has some serious concerns about the financial and practical implications of this proposal. We have urged the Minister to remove those element of the Stage 3 amendment (particularly 4 (a) (iii)) which would divert critical front line services into dealing with significant additional bureaucracy, which would be of limited value.

Concerns

The Government's amendment for the stage 3 debate states:

Implementation of compulsory supervision orders: annual report

- (1) The National Convener must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to the Scottish Ministers a report about implementation of compulsory supervision orders during the year—
 - (a) in Scotland as a whole, and*
 - (b) in each local authority area.**
- (2) The National Convener must give a copy of the report to each member of the Children's Panel.*
- (3) The Scottish Ministers must lay the report before the Scottish Parliament.*
- (4) For the purposes of preparing the report, the National Convener may require each local authority to provide to the National Convener for each financial year—
 - (a) information about—
 - (i) the number of compulsory supervision orders for which the authority is the implementation authority,*
 - (ii) changes in the circumstances that led to the making of the orders,*
 - (iii) the ways in which children who are subject to the orders have been affected by them, and**
 - (b) such other information relating to the implementation of the orders as the National Convener may require.**
- (5) Information provided under subsection (4) must not identify (or enable the identification of) a particular child.*
- (6) In this section, "financial year" has the meaning given by paragraph 23(3) of schedule 1.>*

We are concerned that the provisions created in this amendment will allow the National Convener of Children's Hearings Scotland to ask for individualised information about children in the system and also the National Convener, under this amendment can ask for any piece of information s/he wants. However, our immediate concern relates to the potential to require reporting on '*the ways in which children who are subject to the orders have been affected by them*'.

Our concerns are:

1. This introduces a costly burden on local authorities. If the national convener wants to know how each child under a compulsory supervision order is affected by that order, a review of each individual child would be required, which would be costly. This has not been costed and is not contained in the financial memorandum to the Bill, but we estimate that it could take upwards of 10 hours of work per order at a collective cost of over £1million. A resource which would otherwise be spent on meeting the needs of children.
2. It introduces an unnecessary burden on local authorities as the children's hearings system is not designed to have a lasting relationship with the children it considers – that is for other professionals – social work, health and education. Therefore the provision of this information would not have any impact on the services to children and this questions the need for such a provision.
3. The proposal is also contrary to the intentions relating to the streamlining of scrutiny, post Crerar and the establishment of the new scrutiny bodies, creating as it would a quasi scrutiny arrangement by the National Convener, which would be wholly inappropriate and contrary to the intentions of the new scrutiny arrangements and the principles behind them.

Action required

ADSW and COSLA believe that the Scottish Government's amendment is necessary to make the Bill workable. However, we would want to seek from the Minister a commitment to making it clear that individualised information would not be sought from councils, and should that become the case, that this provision would be fully funded.

ADSW will be making strong representations that the regulations and guidance accompanying this piece of legislation ensure that these costly and unnecessary duties are not placed on local authorities and we ask MSPs to seek similar reassurances from the Minister during the Stage 3 debate.

Summary

Providing the National Convenor of Children's Hearings Scotland the statutory authority to seek any information s/he sees fit from councils will detract from service delivery, will not enhance outcomes to children and young people in any way, will add to the bureaucratic burden on councils and would not be money well spent. There are established review processes for individual children, both within the hearing system and without. New legislation should not add unnecessary reviews and burdensome bureaucracy for both children and partner agencies.

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