

## **A National Care Service for Scotland – Children's Hearings Scotland (CHS) Consultation Response**

### **Children's Hearings Scotland: Our Role**

A Children's Hearing is a legal tribunal comprising trained lay Children's Panel members who volunteer their time and skills, to decide whether compulsory measures of supervision should be put in place for children and young people in need of care and protection, or whose behaviour puts themselves, or others, at risk of harm.

The children's hearings system is founded on principles and objectives established by the Kilbrandon Committee in its review of youth justice, published in 1964. The Committee looked at the effectiveness of arrangements for the care and protection of children. Kilbrandon recognised that, in many cases, the children and young people appearing in the courts charged with offences were themselves vulnerable and in need of care and protection. The children's hearings system was set up to provide a forum in which families, professionals and Children's Panel Members work together to identify what help children and young people need to reduce offending and risk and to achieve their full potential. Panel Members decide whether compulsory measures of supervision are needed to address risks to children and young people's welfare and ensure that their needs are properly met.

The Children's Hearings (Scotland) Act 2011 introduced the role of National Convener of the children's hearings system to oversee appointment of the Children's Panel members who make decisions at children's hearings. Children's Hearings Scotland (CHS) was established in July 2011 as a public body to support the National Convener to deliver his statutory functions. These functions include the recruitment, selection, training of and support for Children's Panel members. Maintaining the independence of CHS and the National Convener is an essential statutory requirement. CHS is governed by a Board of non-executive members, accountable to Scottish Ministers and the Scottish Parliament. Our vision is 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. Our mission is to improve outcomes for vulnerable children and young people in Scotland by enabling Children's Panel members to make high quality decisions about their future.

CHS is committed to keeping The Promise to Scotland's children, by working with all our partners to make the improvements identified in the Independent Review of Care. Central to this commitment is having a deep understanding of what matters to children and their families, listening to them, understanding the impact of trauma and poverty and enshrining children's rights in everything that we do.

## Children's Hearings Scotland: Our Consultation Response

CHS is responding to the NCS Consultation with a focus on maintaining and enhancing the rights of children and young people. Our response has been informed by the following:

- Our commitment to delivering on the Promise
- Our interpretation of the advantages and risks of the proposals contained in the NCS Consultation in relation to service for children, young people and their families
- The views of a cross-section of CHS staff, board and the CHS Community of volunteers.

CHS' response is focused on selected key questions relating to the NCS and services for children, young people and their families. The bulk of our response addresses **Questions: 20, 23,24, 25, 26, and 37**

**Q20 Do you agree that Scottish Ministers should be accountable for the delivery of social care, through a National Care Service?** Yes

**Q24 Should the National Care Service include both adults and children's social work and social care services?**

CHS would welcome a National Care Service (NCS) that includes both and children's services if it results in more integrated improved provision to children and families that consistently upholds and enhances children's rights and results in better outcomes. Currently there is limited detail or evidence to reach a definitive position in relation to this complex question. A detailed children's right impact assessment process, that fully involved children and young people, their families and organisations that support them would help assess the impact of the proposed NCS on advancing children's rights.

Whilst we remain positive, it is important to note that we heard a range of views from our staff, board and volunteers. They were asked to imagine the benefits to children and young people should a NCS be implemented and work well. Thinking about this best case, we have identified potential consequential improvements for children as a result of a NCS for adult care.

These include:

- The potential for further integration of adult health and care services to work more seamlessly to reduce the needs of the parents of children and young people (CYP), with parents and carers being identified as needing support earlier and 'passed around' less.
- The potential for more strategic planning of adult services to increase resources to, and spread good practice in, critical areas of pressure. Our respondents identified the adult services that they felt have the most potential for improvement and knock-on improvement in children and young people's outcomes. These were drug and alcohol, mental health services, domestic violence and justice social work. The availability of services out of office hours

was also raised as an important opportunity for improvement, mirroring the model used in the National Health Service.

In the event that children's social work and care services are added to the NCS, and this goes well, our staff, board and volunteers could foresee further benefits, these included:

- The potential for inclusion of children's services to enable further integration. Effective integration was felt to be the most important thing that will make a positive difference to CYP's outcomes. One of the significant aspects of this was the potential to reduce delays in the current Children's Hearing System, caused by factors including reporting being unavailable in a timely fashion, such as deferrals and appeals. Such delays cause considerable stress to children and families and may affect long term outcomes negatively.
- The potential for a stronger implementation of a national standard leading to a higher standard of outcome, recognising that equality, diversity and inclusion means that different groups and geographies need different things to achieve a similar outcome.
- The potential for earlier intervention. For example if the NCS achieves more coverage of high quality universal services for children, young people and families and more intensive services that are also available outside of office hours and term-time. It was noted that achieving earlier intervention for children will require stable partnerships with education departments and the third sector.
- The NCS could increase accountability for children's services and for achieving equity of outcome. Moving accountability to Scottish Ministers could improve accountability for improvement and for dealing with feedback and complaints, if there is a clearer line of accountability and clearer understanding of children's rights. However there are some specifics of the Children's Hearing system, relating to the status of the National Convener and independent decision making on behalf of the child, which respondents felt needed to be worked out.

It is important to note that some of the volunteers who serve as panel members and area convenors were unconvinced that the NCS including children's services would result in better outcomes for children and families. They stressed that it is important to:

- Work in an evidence-based way. The Promise was identified as a good source of evidence for what is needed to make a difference to care experience of children and young people. However it was also noted that universal services for children includes Early Years provision, which is not clearly within the proposed scope of the NCS. It was noted that the evidence base for how universal services can best contribute to prevention of poor outcomes for children, young people and families, was to be found beyond the work of the Promise.
- Design and implement at a measured pace, inclusive of people with lived experience, and in a way that does not disrupt existing good relationships and

practice. Again The Promise was held up as an approach that has made progress on this.

- Ensure it is implemented in a way that enables the front-line to focus on outcomes with people they are supporting. This is set in contrast to being prescriptive and controlling about how those outcomes should be achieved and to introducing unnecessary layers of management.

There are some specifics of the Children's Hearing System, relating to the status of the National Convener and independent decision making on behalf of the child, which respondents felt needed to be carefully assessed prior to making any changes. For reference:

- The National Convener is appointed by Scottish Ministers with terms and conditions determined by Scottish Ministers
- The National Convener has powers including: the option to provide advice to children's hearings about any matter arising in connection with the functions conferred on children's hearings. In particular the National Convener may provide: (a) legal advice, (b) advice about procedural matters, (c) advice about the consequences of decisions of the children's hearing, (d) advice about how decisions of children's hearings are implemented.
- It is difficult to understand how CHS, SCRA and Social Work (as the implementation Authority) could co-exist legally within a single NCS organisational structure.

### **Q 25 Do you think that locating children's social work and social care services within the National Care Service will reduce complexity for children and their families in accessing services?**

#### **For children with disabilities**

CHS supports this, however to achieve this children with disabilities must have a voice of their own in the system. Advocacy funding and provision should also be increased. Some respondents thought advocacy should come under the NCS. Children with disabilities must also be enabled to play a key role in the design of the service

#### **For transitions to adulthood**

Transitions to adult services are an important point at which it is known things can go well or badly. Having the money follow the child as they grow up and become an adult, both geographically and thematically, could be an important way to avoid current challenges. The focus of the money must be to enable them to flourish, and on meeting their human rights, rather than being constrained by historical, functional, budgets, and can get lost when people move. Transitions to adulthood have historically been constrained by budgets with additional support reflecting system entitlement and not individual needs. Transitions from early years to primary and primary to secondary educational are also key points that need to be carefully considered and planned for.

There is a significant need to improve that transition between children's and adult services to avoid the 'cliff edge' that is experienced by many young people that are involved in the Hearings . The level of resources, consistency of support and understanding of needs are all areas that require improvements. Young people with complex and additional support needs consistently report dissatisfaction with the transition to adult services that results in inconsistencies, reduced services and often poor outcomes.

### **For children with family members needing support**

Many, if not most, of the children who are referred to Hearings have family members needing additional support. Panel Members and Area Convenors highlighted that, at present, a Panel has no control over the support offered to family members and often limited influence. Whether or not a family member received support was identified as being dependent on the approach of social workers, their case-load and the resources available to them. This is a particular area where a NCS could improve the consistency of approach in supporting a whole family, which could make a big difference to children. Panel members also raised that it would be helpful for adults attending Hearings to be supported with non-adversarial advocacy and that achieving this will require investment.

Panel members would welcome a greater focus on family support, in particularly the resources available to them to reduce trauma, inequalities and persistent poverty as this would result in improved outcomes for children and their families.

### **Other Groups**

The following groups and situations were additionally noted by CHS volunteers, board and staff as being places where people may currently miss out on services and would need to be addressed by a NCS.

- Those who need more advocacy or are less aware of their rights, e.g. young people leaving care
- Very vulnerable children can get lost when they are moved around the country, or between countries e.g. unaccompanied children
- Young carers can face very significant challenges
- Those whose family could benefit from community supports and universal services that might not come under the NCS directly
- Young people whose family members are in prison or have been in prison
- Pre and post-natal support for parents

**Q25 Do you think that locating children's social work services within the National Care Service will improve alignment with community child health services including primary care, and paediatric health services?**

We have a concern that there are current issues that may not necessarily be resolved by locating children's social work services within the NCS e.g. the availability of CAMHS services

**Q26 Do you think there are any risks in including children's services in the National Care Service?**

The risks identified by CHS are:

- A loss or dilution of the commitment to The Promise. A worry was expressed that adding children's services to the NCS may seem like duplicating efforts or disregarding The Promise to start afresh. The Promise was felt to operate in quite a different way from the proposals from a NCS. If the NCS goes ahead with children's services included, it was felt this needs to be done with a real commitment to bringing The Promise to life.
- The potential for disruption to existing good relationships and pockets of good practice that could be caused by not going about the addition of children and young people's services in a sufficiently evidence-based way. Concerns were raised about exhaustion of social workers and the risk that experienced social workers, with good relationships with families, could leave the profession as a result of the NCS on the horizon.
- The risk that the attention, resources, inclusion, and logic of the NCS would start from the default of care services for older people. There are undoubtedly big challenges in this provision and there are features of the challenge facing older people's services that are quite different to the challenges facing children, young people and family services. Our respondents stressed that it would be important that sufficient attention be paid to the evidence base and that sufficient resources are allocated to services for children, young people and families.
- The risk that the scale of ambition of building a new service will divert attention. Significant additional resources are required urgently for CAMHS. The needs and views of children and families must not be allowed to become lost in the design of a service originally intended to address significant challenges in older people's care.

**Q37. Do you think justice social work services should become part of the National Care Service (along with social work more broadly)?**

CHS would welcome a youth justice system that provides consistency of access across Scotland. The primary consideration for CHS is that any youth justice system fully respects and furthers the rights of children and young. A youth justice system

should focus on early interventions that prevents children and young people from being involved in behaviour which leads them into conflict with the law. Any change to youth justice must reflect the Kilbrandon principle that children and young people, whether offending or offended against, deserve our care and support.

CHS is actively engaged in changes in a policy agenda that will further enhance the rights of children and young involved in the justice system. This includes learning from The Promise Scotland; Independent Care Review, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, the Age of Criminal Responsibility (Scotland) Act, raising the age of referral to the Principal Reporter to 18 for all children with a presumption against involving children in the Criminal Justice System and a wide range of other significant practice changes. In light of this complex legislative, practice and policy landscape we would caution against any further significant structural changes to youth justice that may risk diverting attention from this transformational children's rights based agenda.

Youth justice is inextricably linked to adult community justice. Any significant structural changes to justice social work need to be evidence-led, reflect the views of stakeholders and carefully assessed and delivered. As with youth justice the legislative and practice landscape is a multi-faceted that involves highly complex funding and delivery arrangements at a local and national level. Therefore, we would suggest that further work is needed before transferring justice social work to a new NCS.