

Progressing Rights at Children's Hearings Scotland

2020 - 2023

A Report by Children’s Hearings Scotland on the steps taken to secure better or further effect of the requirements of the UN Convention on the Rights of the Child (under section 2 of the Children and Young People (Scotland) Act 2014)

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Foreword

Scotland has an ambition to be the best place in the world to grow up. Following the reports from the Independent Care Review in February 2020,¹ Scotland made a promise that our unique Children’s Hearings System would become best placed to truly listen and uphold the legal rights of children and their families.² To achieve this, children’s rights need to be at the heart of every decision made for every child in our country.

This is Children’s Hearings Scotland’s (CHS) second Progressing Rights report. Since the publication of our previous report covering the period April 2017 to March 2020,³ the Scottish Parliament has passed the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. While the Convention has yet to become law, that has not stopped CHS taking action to embed the United Nations Convention on the Rights of the Child (UNCRC) in all that we do.

This report sets out our activity relating to embedding the UNCRC during the period April 2020 to March 2023. While it highlights great examples of work that have contributed to furthering children’s rights within CHS, it also identifies where we should do better and how we are going to address this over the next three years. Our previous report committed to undertaking a Promise Programme of work, specially ensuring that brothers and sisters are involved in decision-making at hearings, hearings embed a trauma-informed response and UNCRC implementation is evidenced across CHS’s work.

“These recommendations will transform the interaction between children, their families and the systems around them making some of the gravest and most significant decisions that can be made.”

Sheriff David Mackie,
Hearings System Working Group
Redesign Report

I am delighted to share the significant progress we have made in these areas. As for what comes next, we welcome the recommendations published within the Hearings System Working Group’s Redesign Report in May 2023 and are ready to embrace a period of substantial, positive and exciting reform for the Children’s Hearings System.

¹ [Care Review Reports – Independent Care Review](#)

² [The Promise Scotland’s response to the Education, Children and Young People Committee’s call for views on the Children \(Care and Justice\) \(Scotland\) Bill](#)

³ [Progressing Rights at Children’s Hearings Scotland 2017 - 2020](#)

Embedding the UNCRC underpins a significant amount of work and focus within CHS, highlighting our commitment to furthering children’s rights. The time period covered by this report was particularly challenging due to the global COVID-19 pandemic, but our determination to take a children’s rights-based approach to everything we do at Children’s Hearings Scotland has never faltered. This is fundamental not only to ensure effective hearings, but also to our ongoing commitment to deliver on the expectations of The Promise. We highlight examples of the work we have done and continue to do to #KeepThePromise within this report.

We are grateful to our community for their continued hard work, and we are confident that children’s rights will continue to be at the heart of the transformed hearings system. We would welcome feedback from any user of this report on how we can better protect the rights of children.



Elliot Jackson
National Convener
and CEO



Katharina Kasper
Chair of
the Board

About Children's Hearings Scotland (CHS)

CHS is one of several organisations that work within the Children's Hearings System, Scotland's unique care and justice system that exists to ensure the safety and wellbeing of infants, children and young people in Scotland.

Our activities focus on recruiting, training and supporting volunteer Panel Members who make decisions in children's hearings (sometimes known as the 'Children's Panel'), and volunteer Area Support Teams who provide support and direction at a local level.

We have a national team of 44 staff and approximately 2,500 volunteers within our community. We are led by the National Convener who is also our Chief Executive. The National Convener is responsible for the recruitment, training, retention and support of Panel Members.

Any person or organisation worried about the rights of a child or have protection concerns can make a referral to the Scottish Children's Reporter Administration (SCRA). This can include concerns about a child's care and protection, non-attendance at school, home conditions, neglect or abuse and offending behaviour (including drug and alcohol misuse). A children's hearing called due to these concerns will focus on the supports that can be put in place to address unmet needs, ensuring a child's rights are upheld and they are allowed to grow, learn, play, develop and flourish with dignity.

Between April 2020 and March 2023, our Panel Members sat on 60,498 hearings:⁴

- In 2020/21, hearings were held for 8,977 children.
- In 2021/22, hearings were held for 10,902 children.
- In 2022/23, hearings were held for 10,981 children.⁵

Although a large number of children are involved with the hearings system, this has been decreasing consistently over recent years.

⁴ 16,248 in 2020/21; 21,909 in 2021/22; and 22,341 in 2022/23.

⁵ CHS does not collect information on individual children therefore cannot produce disaggregated data.

Our Vision for Rights and Inclusion at CHS

We are committed to putting children’s rights and the UNCRC at the heart of everything we do. Our Children’s Rights and Inclusion Strategy clearly outlines our vision and ambition for children’s rights in CHS.⁶

What is our Children’s Rights and Inclusion Vision?

1. We want a Children’s Hearings System that listens, acts and places real value and weight to the views of infants, children and young people.

2. At Children’s Hearings Scotland inclusion will be central to our core values as an organisation. Expression and inclusion of views will be evident in all that we do and will influence how we work internally and with partners.

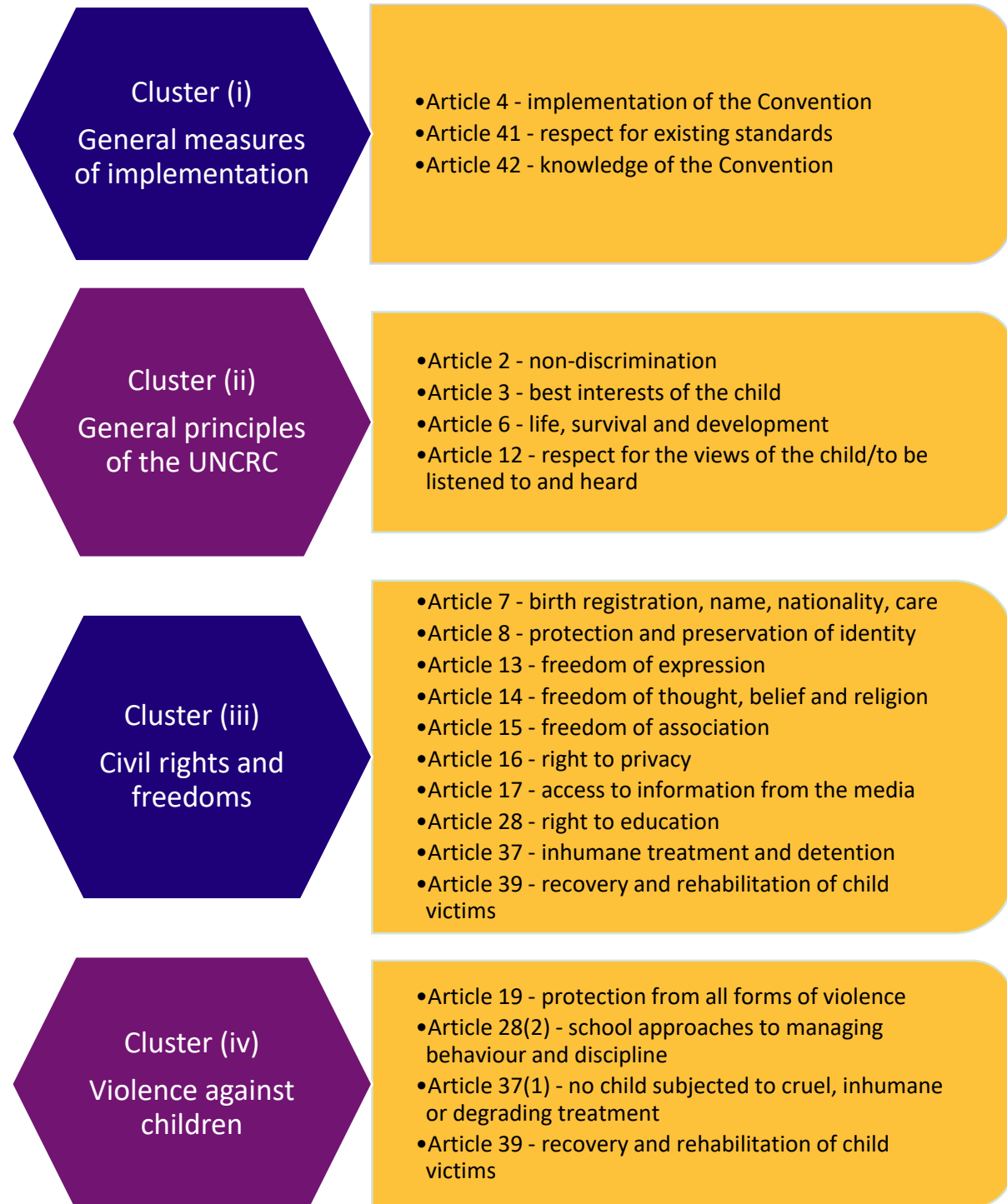
3. Infants, children and young people will feel respected, valued, heard and included across all aspects of the Children’s Hearings System.

⁶ [CHS Children's Rights and Inclusion Strategy](#)

The UNCRC Clusters

To help us show how we have contributed to ensuring children's rights are respected, protected, enabled and fulfilled, our activities have been linked to the UNCRC Articles and then grouped into the eight UNCRC clusters.

The Clusters and Articles are:



Cluster (v)
Family environment and alternative care

- Article 5 - parental guidance and a child's evolving capacity
- Article 9 - separation from parents
- Article 10 - family reunification
- Article 11 - abduction and non-return of children
- Article 18(1-2) - parental responsibilities and state assistance
- Article 19 - protection from all forms of violence
- Article 20 - children deprived of a family
- Article 21 - adoption
- Article 25 - review of treatment in care
- Article 27 - adequate standard of living
- Article 39 - recovery and rehabilitation of child victims

Cluster (vi)
Basic health and welfare

- Article 6 - life, survival and development
- Article 18(3) - parental responsibilities and state assistance
- Article 23 - children with disabilities
- Article 24 - health and care services
- Article 27(1-2) - adequate standard of living
- Article 33 - drug abuse

Cluster (vii)
Education, leisure and culture

- Article 28 - the right to education
- Article 29 - the goals of education
- Article 30 - children in minority/indigenous groups
- Article 31 - leisure, play and culture

Cluster (vii)
Special protection measures

- Article 22 - refugee children
- Article 30 - children of minority/indigenous groups
- Article 32 - child labour
- Article 33 - drug abuse
- Article 34 - sexual exploitation
- Article 35 - abduction, sale and trafficking
- Article 36 - other forms of exploitation
- Article 37(a-d) - inhumane treatment and detention
- Article 38 - war and armed conflicts
- Article 39 - recovery and rehabilitation of child victims
- Article 40 - juvenile justice

Reporting on the Clusters

In this Progressing Rights Report we present how our activities from April 2020 to March 2023 contribute to each of the UNCRC clusters and corresponding Articles. While certain Articles sit in more than one cluster, we have reported activity relating to each under a single cluster to avoid repetition:

Cluster	Reports on Articles...
(i)	4, 42
(ii)	2, 3, 6, 12
(iii)	7, 8, 13, 16, 17, 37, 39
(iv)	19
(v)	9, 20, 21, 25, 27
(vi)	23, 24, 33
(vii)	28
(viii)	22, 30, 32, 34, 36, 40

Throughout the report we have presented case studies that show how we have protected and enhanced the rights of children. The final section of the report acknowledges our activity gaps and explains how we intend to address these.

Language

Throughout this report we use language that reflects the love, care and respect that all children have a right to. However, in certain places, we have had to use words and phrases more commonly used when referring to the hearings system.

At times, we have used these words because a hearing is a legal tribunal and certain words have a specific legal meaning attached to them (for example, they are used in legislation). At other times, such language is used as no single word is defined the same by all persons.

We are committed to work alongside children and external partners to improve the language used in the hearings system.

Where the terms 'child' or 'children' are used throughout this report, this includes infants, children and young people under the age of 18.

A glossary of key words and acronyms can be located in the Appendix to this report.

Our COVID-19 Response

The COVID-19 pandemic brought with it particular challenges to which we, as an organisation, had to quickly adapt. Significant time, resources and effort had to be diverted during 2020 and 2021 to respond to the evolving pandemic to ensure we continued to protect and care for the children who required children's hearings. We believe the examples of the changes implemented during these unprecedented times cannot be reported under one single cluster, as is the format of the remainder of this report.

In direct response to the COVID-19 pandemic, children's hearings had to be moved to secure digital platforms. This was delivered over the space of three weeks. This incredible achievement ensured we continued to operate throughout each lockdown period and evidenced our commitment to protecting the rights and welfare of children during these challenging times.

To achieve this, 1,600 digital devices were distributed to our panel community to enable them to participate in hearings virtually during periods of lockdown, accompanied by a full suite of training courses to enhance skills to manage the various challenges of a virtual hearing environment.

We worked closely with the Scottish Children's Reporter Administration to ensure that all children and their families were offered similar provisions in order to attend hearings, ensuring rights to participate and be heard were not obstructed during this time.

Legislative changes were required to allow us to continue operating through this challenging time. The Coronavirus (Scotland) Act 2020 enacted changes to the ways in which we operated. We worked alongside the Scottish Government to ensure that despite these changes, hearings would continue with as little impact on children's rights as possible. For example, children retained their right to attend their hearing, but their duty to attend was removed to reflect the difficulties that children and families faced during these uncertain times.

When restrictions were imposed, our trainee Panel Members were only partly through their pre-service training. It was vitally important that this training journey continued in order to ensure the right people, with the right skills, became fully active Panel Members. These new trainees had been selected from another successful recruitment campaign during which young people with lived

experience of the hearings system played a significant role in the shortlisting and selection of candidates.

Working closely with our training partner, the Children's Hearings Scotland Learning Academy (CHSLA), the final two days of training were adapted and delivered virtually with only minimal delay to the original pre-service training timetable. Online training delivery has continued for both trainee Panel Members and our serving volunteers from 2020 until the time of writing this report.


Attending hearings virtually has also remained an option for children, long after lockdown movement restrictions were lifted. We recognise that some children may feel more comfortable attending their hearing virtually, and that this platform allows more privacy with less disruption to education or requiring significant travel. We see this as a positive step to ensuring a child can express their view and be heard, in an environment that minimises stress, disruption and the risk of further trauma.

Over the course of 2022, Children's Hearings Scotland worked with the Scottish Government to secure an amendment to the Coronavirus (Recovery and Reform) (Scotland) Act 2022, in order to make the requirement that both men and women serve as Panel Members on every children's hearing more flexible. This change was based on our learning from the coronavirus emergency legislation where this flexibility helped ease capacity issues.

In certain areas, due to the underrepresentation of male Panel Members, a handful of male volunteers had been over-relied upon, placing significant pressure on those Panel Members and the Rota Managers. This legislative change helped ensure that CHS could continue to protect the rights of all children by providing skilled decision makers, irrespective of their gender.

Significant time and resources during the reporting period covered by this report have been utilised to ensure that our services to children and their families have continued and their rights have been protected. Changes made to how a children's hearing operates have been identified as hugely positive and we have continued to invest time and resources into making these changes permanent.

While this consumption of resources has meant that realising certain ambitions for progress, as detailed in our previous report, have been delayed. We do not view this as a negative outcome.



We are immensely proud of our rapid response to the challenges of the COVID-19 pandemic. We now have a successful digital platform to deliver hearings. We have streamlined the process for pre-hearing panels and achieved changes in legislation affecting the gender composition of panels, both of which allow us to focus resources on hearings for the most vulnerable children and families in our society. We have made significant positive steps forward while adapting to the challenging times faced during the COVID-19 pandemic and remain committed to progressing our ambitions as discussed in the final section of this report.

Cluster (i): General Measures of Implementation

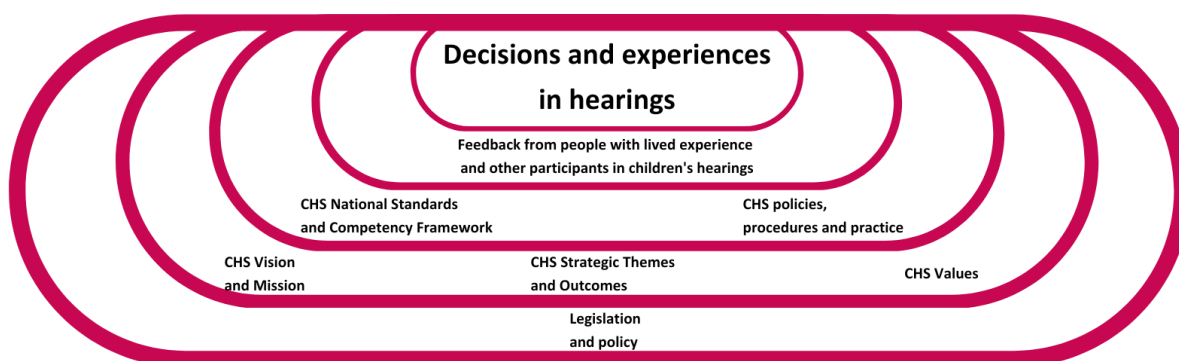
Cluster (i) focuses on knowledge of children’s rights and ensuring systems and structures are in place to respect and realise these rights. It includes activities such as the promotion of children’s rights, raising awareness, training, capacity building, resourcing and service planning.

This cluster covers **Article 4** (implementation of the Convention) and **Article 42** (knowledge of the Convention).

We operate within a strong child-centred context that ensures that the best interests of children lie at the heart of everything we do. Our work is guided by national legislation and policy, as well as our own values, vision and mission. Children’s Hearings Scotland’s strategic themes and outcomes focus on meeting the needs of children and ensuring that we better protect and uphold their rights.⁷

As part of this, we aim to prioritise the best interest of all children by making sure sound decisions are made in hearings and children have positive experiences of the hearings system, and to continually improve our performance.

A summary of our operational context is given below:



⁷ [CHS Corporate Plan 2020-23](#)

During 2020-23, Children's Hearings Scotland was actively involved in multi-agency groups working toward improving the Children's Hearings System and ensuring children's rights are met. These include:

- **UNCRC Embedding in Public Services Reference Group** - providing advice to the Embedding Children's Rights in Public Services project of the UNCRC Implementation Programme.
- **CHIP (Children's Hearings Improvement Partnership)** – working together with partner agencies to share ideas and co-ordinate efforts to improve experiences of the hearings system for children.
- **Youth Justice Improvement Board** – collaboratively working to promote a culture of improvement in the youth justice system through prioritising the whole system approach.
- **Secure Care Strategic Board** – working with partner agencies to create a vision for the future purpose of secure care and developing national standards for the care providers.
- **National Trauma Training Programme** – assisting the Scottish Government to meet their commitment to preventing Adverse Childhood Experiences (ACES).
- **Children's Hearings Advocacy Expert Reference Group** – advising Scottish Ministers on how to establish and develop a sustainable model of advocacy support services being offered to children.
- **Age of Criminal Responsibility Ministerial Advisory Group** – assisting Scottish Ministers to undertake the statutory review of the age of criminal responsibility in Scotland.
- **Resilience and Improvement Delivery Group (previously known as the Children's Hearings COVID Recovery Group)** – ensuring children's rights were protected in relation to the Children's Hearings System during periods of restrictions through the COVID-19 Pandemic.

The Hearings System Working Group

The Hearings System Working Group (HSWG) was formed to pioneer discussions, conduct consultations and present a list of recommendations to the Scottish Government of the ways in which the Children's Hearings System must be changed in order to keep The Promise to the children of Scotland.

"You will grow up loved, safe and respected. And by 2030, that promise must be kept."

The Promise Scotland

The HSWG comprised of board members and staff from CHS, and the Scottish Children's Reporter Administration with the Scottish Government in an observer role. The HSWG led over 500 hours of discussion and deliberation, held 12 consultations with care experienced young people and 11 with parents and carers. Overall, the voices of over 5,500 children and young people with care experience contributed to the work of the HSWG. This is something we are particularly proud to be part of.

The HSWG was a core team to drive changes included in The Promise and legislation under the UNCRC within the Children's Hearings System. Their work culminated in the publishing of their Redesign report in May 2023⁸ which details 97 recommendations that are now being considered by the Scottish Government. CHS believe the recommendations made by the group that can be implemented without legislative change should be progressed at pace. What can change now, should change now.

CASE STUDY - HSWG Before, During and After Project Groups

The full redesign process involved objectively reviewing the structure and procedures of a children's hearing, separated into what happens before, during and after a hearing. Three key members of CHS staff individually led these reviews and were directly responsible for delivering the redesign recommendations for their parts of the process, which was a huge task. At all stages, the voice of our young people was sought, respected and amplified with the focus always remaining on the welfare and upholding the rights of the children in the hearings system.

⁸ [Hearings System Working Group's Redesign Report](#)

Our Vision

In 2022 we published Vision 2022, which outlined our vision for the future and what we want the Children’s Hearings System to look like by 2025.⁹

We collaborated with young people from various groups such as Our Hearings, Our Voice and the CHS Participation Group and are proud to make the following commitment.

Our vision for the hearings system is that:

We will provide, uphold
and promote children’s rights.

We will provide a child and
family-friendly care and justice space.

We will ensure participation is
at the heart of the hearings system.

It is crucial to everyone at CHS that we create a hearings system where everyone works together, making sure that the views of all children are heard, respected and valued. This document was pivotal in ensuring our Panel Members were fully aware of how their knowledge and experience could contribute to the redesign of the hearings system, and ultimately achieving this ambitious vision of children’s hearings in the future.

Our Children’s Rights and Inclusion Strategy

Our Children’s Rights and Inclusion Strategy, published in July 2020, is at the core of our work and it puts the child’s voice at the centre of all we do.¹⁰

We are focused on three key areas which CHS continues to work on to see our vision for Scotland’s children realised:

⁹ [Vision 2022](#)

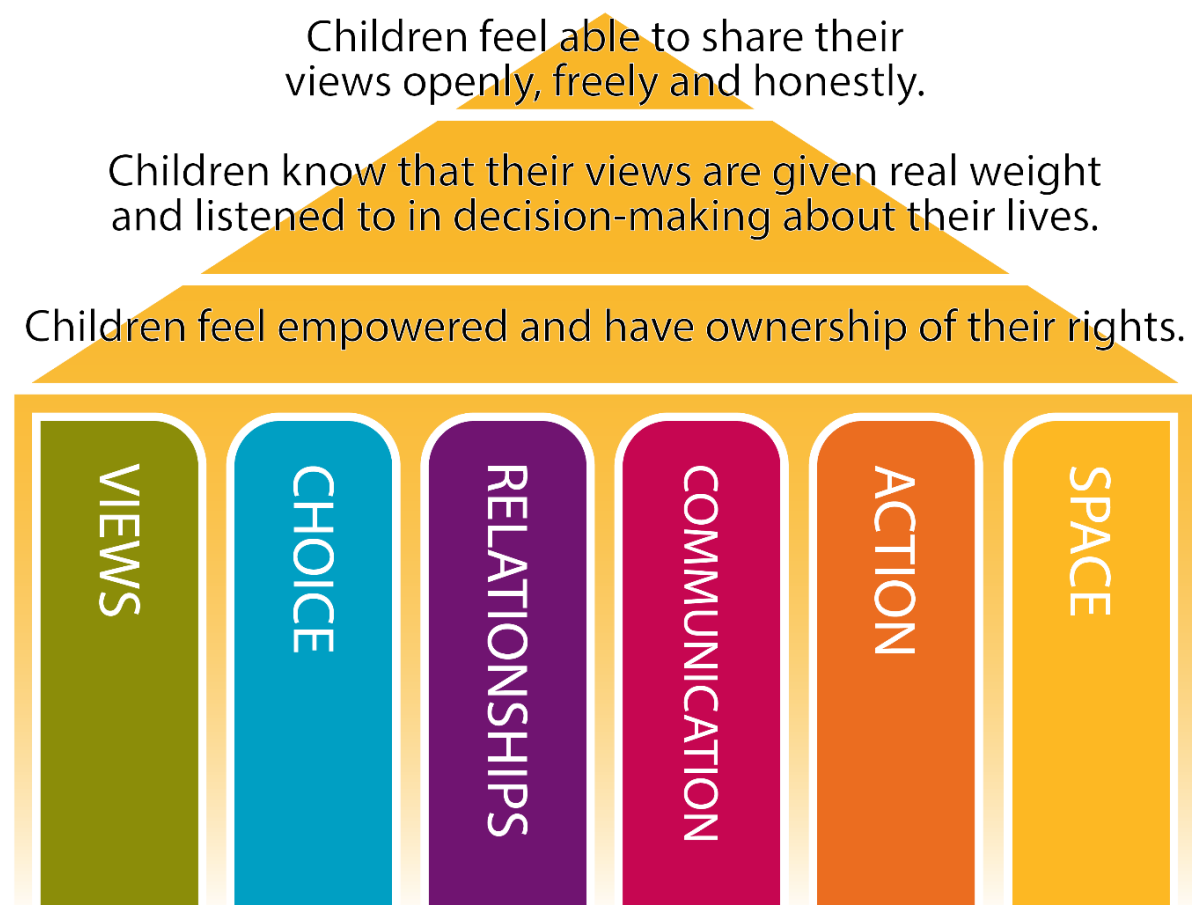
¹⁰ [Children's Rights and Inclusion Strategy](#)

Children’s Hearings: Children must feel that is it their hearing, where they can choose how to share their views about their lives. Panel Members’ interaction and communication with children will be as inclusive as possible, recognising and understanding trauma and its impact, as well as being open to the ways that children may choose to share their views.

Area Support Teams: Volunteer Area Support Teams support the delivery of the National Convener’s functions through providing local support to Panel Members. They will work to ensure the views of people with lived experiences of the hearings system contribute to recruiting and supporting local volunteers.

Children’s Hearings Scotland: This relates to the successful running of CHS as an organisation. CHS will model and demonstrate the ways in which the methods of consultation, engagement, participation, co-design and co-production can be used to improve our everyday work and practice.

People with lived experience of the hearings system have helped us identify six ‘pillars of inclusion’ that are considered essential in reaching the three outcomes described above.



The ways in which we have begun to embed these principles into everything we do are discussed in more detail within each cluster.

Our Strategic Themes and Outcomes

Our Strategic Outlook 2020-2023 defined our ambitious, improvement-driven strategy that placed children's rights at the centre of Children's Hearings Scotland and set out our priorities for this reporting period.¹¹ The first theme focused explicitly on rights - 'Better protect and uphold the rights of children'.

To achieve this, we identified that training needed to be delivered to both staff and volunteers, to ensure a full understanding of children's rights and how we should be embedding them in everything that we do.

Our priority was to focus on our volunteer community. The work done to produce our UNCRC Rights Map ([explained more below](#)) emphasised they are the people who work face to face with children and their families on a daily basis.

For children's rights to be fully at the centre of everything we do, we identified that we must promote ways in which children and those with lived experience of the Children's Hearings System can participate in our strategic planning and day to day operations.

Policies, Procedures and Practices

Our internal policies and procedures support children's rights and are discussed in relation to the relevant Articles in each cluster:

- [National Standards for the Children's Panel](#)
- [Competence framework for Panel Members](#)
- [Children's Rights and Inclusion Strategy](#)
- [Complaints Handling Procedure](#)
- [Equality, Diversity & Inclusion Strategy](#)

¹¹ [CHS Corporate Plan: Our Strategic Outlook 2020-2023](#)

Our business planning processes shows how we involve young people with lived experience in our work. Our budgets include an allocation for enabling the participation of young people with lived experience in various activities, for example recruitment and retention of Panel Members, and we provide devolved funding to each Area Support Team to empower them to meet local needs.

To emphasise our focus on this, our **Participation Standards** were launched in December 2021 and play a fundamental part in shaping and our operations.

CHILDREN'S HEARINGS SCOTLAND PARTICIPATION STANDARDS



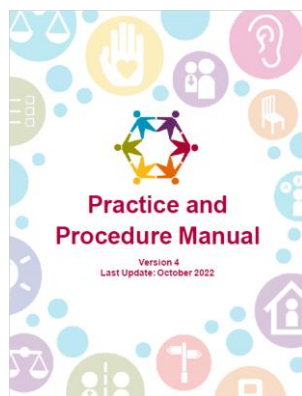
- | | | |
|----------|---|--|
| 1 | Children's Hearings Scotland will be guided by the voice of lived experience providing a welcoming, person centered participation package | |
| 2 | People with lived experience will be provided with options, information and support required to influence the work of Children's Hearings Scotland | |
| 3 | All influencing opportunities will be people friendly, inclusive and purposeful | |
| 4 | The role of lived experience and influencing will be fully understood across the Children's Hearings Scotland community | |
| 5 | Participation will be purposeful lived experience will work with the work with the Children's Hearings Scotland community together to guide, influence and inform all change and improvement work within Children's Hearings Scotland | |
| 6 | Children's Hearings Scotland is committed to the promise, improvement and change. Children's Hearings Scotland will make change now where possible and will act, plan and feedback to the care community | |

Building from this, our Participation Framework is in development at the time of writing this report. This framework will recognise that people with lived experience who contribute their time, energy and expertise to shape the work of CHS have a vital role in ensuring that our approach keeps the best interests of the child at the heart of what we do.

The Participation Framework will provide a range of opportunities for those with lived experience to share their views, co-design projects, consult, engage and collaborate within the areas of CHS which most interest them. In return, we will

provide influencing opportunities, support, mentoring, skills development and learning experiences for everyone involved.

Practice and Procedure Manual



Our Practice and Procedure Manual¹² is key to ensuring Panel Members are fully informed so that they can make decisions in the best interests of every child. It provides access to current policy, good practice, legislation and comprehensive advice on how hearings are conducted. It includes guidance on areas relating to children’s rights, such as managing complex hearings, minimising barriers in hearings, maintaining important relationships for children and improving outcomes.¹³

The Practice and Procedure Manual is regularly updated alongside practice guides to ensure decisions always reflect changes in legislation or policy and to support continuous improvement of Panel Member practice. There were two key updates rolled out during the period of this report, relating to a child’s right to advocacy and sibling participation rights.

Coronavirus Practice Guide

A separate, specific practice guidance document was issued to support Panel Members implement the Coronavirus (Scotland) Act 2020. This guidance focussed on the changes made by this legislation, as explained in detail in the above section [‘Our COVID-19 Response’](#).

Impact Assessments

In 2022, a Joint Impact Assessment Tool was developed to encompass Children’s Rights Impact Assessments, Data Protection Impact Assessments, Equalities Impact Assessments and Island Communities Impact Assessments. This was a hugely successful cross-organisational project that firmly embedded a consideration of our compliance with children’s rights across all aspects of our organisation.

¹² [Practice and Procedure Manual \(chscotland.gov.uk\)](https://chscotland.gov.uk)

¹³ Our Practice and Procedure Manual is updated in collaboration with SCRA, the Learning Academy, CELCIS, CYCJ and CEDAR.

Any person implementing a new project or work plan must complete the first stage of our Impact Assessment process. This asks four key questions to determine whether there may be a potential impact, positive or negative, across four areas:

- Children’s wellbeing and their rights
- People from protected characteristics groups (Equality)
- People within Island Communities
- The gathering, handling and processing of personal data (Data Protection)

IMPACT ASSESSMENTS FORM 1
●●●●●



Will the project/work plan...

<ul style="list-style-type: none"> • Yes/No (delete as appropriate) • Summarise the data processing taking place 	<p>involve/create a way of processing (collecting, analysing, using, sharing, removing) personal data (information that can identify a living person) that is new for CHS?</p>	<ul style="list-style-type: none"> • Yes/No (delete as appropriate) • Summarise any direct and/or indirect impacts 	<p>result in new and significant impact for people within a protected characteristic group?</p>
<ul style="list-style-type: none"> • Yes/No (delete as appropriate) • Summarise any direct and/or indirect impacts 	<p>result in new and significant impact on children and young people under 18, either directly or indirectly?</p>	<ul style="list-style-type: none"> • Yes/No (delete as appropriate) • Summarise any direct and/or indirect impacts 	<p>result in new and significant impact on people living or working within Island Communities?</p>

Attach this completed form to SMT Papers/PID
 Answered YES to any area? Complete the relevant [Screening Tool \(Form 2\)](#)
[\(Data Protection, Equality, Children’s Rights, Islands\)](#)

If Form 1 highlights a potential impact in any of the key four areas, stages two and three analyse this impact further, identifying mitigating factors or modifications that may be required to the project plan. A key part of information that must be included at this stage is how the views of children have been incorporated into identifying impacts.

All staff have undertaken training on the use of impact assessments, and these are now firmly embedded in our way of working as an organisation.

Government Policy

We champion children's rights at a policy level. We will speak out when we feel children's rights are not being protected and we will be unapologetic in challenging legislation and policy that does not fully respect the rights of children. Over the reporting period we have responded to the following Scottish Government consultations:

- The incorporation of UNCRC into Scots law
- Raising the Age of Criminal Responsibility
- The Children (Care and Justice) (Scotland) Bill
- Scotland's National Care Service
- Getting it Right for Every Child (GIRFEC) refresh
- Cross-Border Placements of Children in Residential Care
- COVID-19 Recovery Committee

Our continuous message in these consultations is that children's rights must be promoted and upheld. In order to do that, all agencies, guidance and legislation within the Children's Hearings System must be compliant with the articles of the UNCRC. We have strongly voiced our belief that it is essential for there to be a duty to comply with the UNCRC when any decisions relating to a child's life are made, and that realising children's rights should be promoted as a wider culture change, not just something that could become enforceable in our courts.

Our most recent consultation involved giving evidence in person to the Education, Children and Young People Committee of the Scottish Parliament in April 2023 with regards the Children (Care and Justice) (Scotland) Bill. This Bill would implement a change in law so that any child, regardless of their previous involvement with the Children's Hearings System, can be referred to the Principal Reporter to arrange a hearing. The Bill defines child as any person under the age of 18, which would equalise the current disparity of treatment of 16 and 17-year-olds who are currently subject to compulsory measures of supervision and those who are not.

Our evidence strongly supported that all children under the age of 18 must be treated the same and have access to the welfare-based response of a hearing, rather than the punitive approach of the criminal justice system. We also made clear that any response that includes restriction of a child's liberty must be proportionate and accompanied by an intensive support package to minimise the length of time such restrictions are required.

Specific policy responses are discussed further in relation to their applicable Articles throughout the remainder of this report.

National Training and Development

We deliver a high-quality national training programme for staff and volunteers through our Children's Hearings Scotland Learning Academy. All training programmes are linked to our children's rights, values, National Standards and Panel Member competencies, to ensure that Panel Members feel supported in their role.

All Panel Members have to undertake comprehensive pre-service training and assessment, which is the first stage of our three-year Professional Development Award Programme. This ensures they understand the principles of the hearings system, the legislative framework within which it operates and how to make decisions in the best interests of children.

Pre-service training was redesigned during 2021 and 2022 in collaboration with people with lived experience of the Children's Hearings System, with new content introduced on children's rights, the UNCRC and communicating with children.

In addition to pre-service training for new volunteers, existing Panel Members and Panel Practice Advisors (PPAs) participate in a range of training throughout each year on various topics.

"99% of volunteers say they are aware that children have specific rights under the United Nations Convention on the Rights of the Child."

"85% of volunteers strongly agree or agree that they feel confident they understand the impact of UNCRC rights in the context of a children's hearing."

"97% of volunteers are extremely confident or very confident that the best interests of the child is a primary consideration at every hearing."

2022 UNCRC Survey

CASE STUDY - UNCRC RIGHTS MAP

During 2022, our UNCRC Rights Map was developed by an intern who joined us from the Robertson Trust. The map uses a traffic light system to identify which articles are directly relevant to the duties of a Panel Member (red), those which are relevant to the wider work of the Children’s Hearings System (amber) and those which are relevant to children’s rights in Scotland in a broader sense (green). This project identified that 26 of the UNCRC articles classified as red, 6 as amber and 22 as green. From this, we drew the conclusion that our immediate area of focus needed to be around Panel Member knowledge and practice.

UNCRC Rights Mini-map Summary

This resource divides the UNCRC articles in terms of their relevance to Panel Members and CHS' statutory obligations.

Under the UNCRC, all children have a right to:

ARTICLE 1 THE UNCRC RIGHTS IF THEY ARE UNDER 18	ARTICLE 2 NON-DISCRIMINATION	ARTICLE 3 THEIR BEST INTERESTS BEING THE TOP PRIORITY IN DECISIONS	ARTICLE 4 GOVERNMENTS WHO INSURE THAT THEIR RIGHTS ARE BEING PROTECTED AND RESPECTED	ARTICLE 5 GOVERNMENTS WHO HAVE RESPECT FOR THEIR FAMILY'S GUIDANCE	ARTICLE 6 LIFE, SURVIVAL AND DEVELOPMENT
ARTICLE 7 BIRTH REGISTRATION, NAME, NATIONALITY, CARE	ARTICLE 8 THEIR IDENTITY BEING PROTECTED AND RESPECTED	ARTICLE 9 LIVE WITH THEIR PARENTS UNLESS IT IS HARMFUL TO THEM	ARTICLE 10 REUNITE WITH THEIR FAMILY IF THEY ARE IN ANOTHER COUNTRY	ARTICLE 11 GOVERNMENTS WHO PROTECT THEM FROM ABDUCTION AND HELP THEM RETURN HOME	ARTICLE 12 THEIR VIEW BEING RESPECTED
ARTICLE 13 FREEDOM OF EXPRESSION	ARTICLE 14 FREEDOM OF THOUGHT, BELIEF AND RELIGION	ARTICLE 15 FREEDOM OF ASSOCIATION	ARTICLE 16 PRIVACY	ARTICLE 17 ACCESS INFORMATION FROM ALL KINDS OF MEDIA	ARTICLE 18 PARENTS WHO SHARE RESPONSIBILITY FOR THEIR UPBRINGING
ARTICLE 19 PROTECTION FROM VIOLENCE, ABUSE, NEGLECT AND BAD TREATMENT	ARTICLE 20 SPECIAL PROTECTION IF THEY ARE UNABLE TO LIVE WITH THEIR FAMILY	ARTICLE 21 ACCESS SAFE AND LAWFUL ADOPTIONS	ARTICLE 22 GOVERNMENTS WHO PROTECT THEM IF THEY ARE REFUGEES	ARTICLE 23 BE SAFE AND HAPPY IF THEY HAVE A DISABILITY	ARTICLE 24 HEALTH AND HEALTH SERVICES
ARTICLE 25 REGULAR REVIEW OF THEIR TREATMENT WHILE IN CARE	ARTICLE 26 SOCIAL SECURITY	ARTICLE 27 AN ADEQUATE STANDARD OF LIVING	ARTICLE 28 EDUCATION	ARTICLE 29 EDUCATION WHICH DEVELOPS THEIR PERSONALITY, TALENTS, ABILITIES, RESPECT FOR OTHERS AND THE ENVIRONMENT	ARTICLE 30 FOLLOW THEIR FAMILIES' WAY OF LIFE
ARTICLE 31 LEISURE, PLAY AND CULTURE	ARTICLE 32 BE PROTECTED FROM DANGEROUS WORK AND BE AT A MINIMUM AGE BEFORE WORKING	ARTICLE 33 BE PROTECTED FROM ILLLEGAL AND DANGEROUS DRUG USE	ARTICLE 34 BE PROTECTED FROM ALL FORMS OF SEXUAL ABUSE AND EXPLOITATION	ARTICLE 35 GOVERNMENTS WHO PROTECT THEM FROM BEING ABducted, SOLD OR TRAFFICKED	ARTICLE 36 BE PROTECTED FROM OTHER FORMS OF EXPLOITATION AND HARM
ARTICLE 37 BE PROTECTED FROM HARSH TREATMENT AND DETENTION	ARTICLE 38 NOT PARTICIPATE IN WAR OR NOT JOIN THE ARMED FORCES IF THEY ARE UNDER 15	ARTICLE 39 ACCESS SPECIAL SUPPORT AND RECOVERY IF THEY HAVE EXPERIENCED TRAUMA	ARTICLE 40 LEGAL HELP, A FAIR TRIAL AND A JUSTICE SYSTEM WHICH TREATS THEIR AGE INTO ACCOUNT	ARTICLE 41 GOVERNMENTS WHO HAVE A RESPECT FOR HIGHER NATIONAL STANDARDS	ARTICLE 42 GOVERNMENTS WHO ENCOURAGE CHILDREN, YOUNG PEOPLE AND ADULTS TO KNOW ABOUT THE CONVENTION

The UNCRC has 54 articles altogether. Articles 43-54 set out how the government and other organisations can allow children to enjoy their rights.

COLOUR KEY
RED: directly relevant to Panel Members' statutory responsibilities
AMBER: relevant to the wider work of the children's hearing system
GREEN: relevant to children and young people's rights in Scotland

The outcome of the Rights Map project shaped the development of a survey which was sent to our volunteer community in December 2022. This was split into 'Background Knowledge,' Understanding of General Principles' and 'Rights Based Practice.' The results of this survey demonstrated that our Panel Members had firm knowledge of the key principles of children’s rights. This provided evidence as to what training we needed to develop in order to support our Panel Members in their role going forward.

Following on from this in March 2023, expert UNCRC training was delivered in collaboration with 'Children in Scotland' to our Panel Member and Panel Practice Advisor communities. This training focused on practice issues such as

the questions Panel Members should be asking in hearings with regards to children's rights, how rights should be described to children and what Panel Members should do if they believe a right is not being complied with. These online sessions were followed by the launch of a UNCRC-specific module by the Learning Academy which shared further resources.

This will be a live module for ongoing learning and training refreshment going forward. Once the full scope of the revised United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is known, we will assess whether a comprehensive training plan for Panel Members and Panel Practice Advisors which covers any new legislative changes is needed.

Staff training remains a priority, with new opportunities for specific UNCRC training currently in design. We commit to delivering an initial training module to all staff by the end of June 2023.

Further examples of training over the period 2020-2023 that support and protect children's rights include:

- **The Children (Scotland) Act 2020** – covering the introduction of participating individuals to the hearing room and furthering the ways in which children's views should be sought;
- **Advocacy** – covering a child's right to advocacy and the duty of a chairperson to ensure each child is aware of this right;
- **The Coronavirus (Scotland) Act 2020** – covering the emergency changes to legislation that were enacted due to the COVID-19 pandemic and associated restrictions;
- **Hearings in Lockdown** – equipping Panel Members with the skills required to conduct children's hearings virtually;
- **Neglect** – providing a deeper understanding of the types of neglect, how to recognise signs of neglect and the long-term effects neglect can have on a child's development;
- **Permanence** – providing guidance on the legal process of permanence and the factors that should be considered when giving advice to the Sheriff Courts in relation to this;


- **Neurodiversity** – providing an understanding of different types of neurodiversity and tools to better aid communication and ascertaining the views of affected children;
- **Information Governance** – giving an insight into the types of information that are protected about individuals, the procedures that should be followed in the event of a data breach, and practical guidance on storing hearing papers at home;
- **Equality, Diversity and Inclusion** – providing a deeper understanding about the groups who often suffer inequalities and the ways in which Panel Members should conduct a hearing to ensure full and fair participation by everyone;
- **Enhanced Practice** – further developing Panel Member skills ahead of undertaking Management of Hearings training; and
- **Management of Hearings** – the final training course a Panel Member must complete to be qualified to chair a children’s hearing.

Local Training and Development

Through our Area Support Teams, we deliver a local learning programme to enhance our approach to quality and provide national consistency in practice. This covers topics such as quality assurance, complaints investigation procedures and recruitment and reappointment.

Area Support Teams arrange their own local learning and development programmes and have run sessions (often involving external practitioners) on topics that help protect and promote children’s rights. These include events on child and adolescent mental health, drug abuse, domestic violence, adverse childhood experiences, trauma, LGBTI young people, unconscious bias, attachment, early intervention, advocacy and sibling participation in hearings.

We support Panel Members to make the best possible decisions for children through our team of Panel Practice Advisors. The PPA observation programme means each Panel Member has a minimum of two observations a year, where they are assessed against indicators in each of the competencies to ensure they can demonstrate their ability to meet them and continually improve their



practice. PPAs form a key part of our quality assurance process, playing a critical role in ensuring and maintaining the high quality of, and consistency within Children’s Hearings, so that they meet the needs of children.

The restrictions imposed during the coronavirus pandemic meant that PPA observations were logistically challenging, as often hearing rooms and online spaces were not able to accommodate observers. Our policy of each Panel Member being observed at least twice a year was not possible to achieve during 2020 and 2021. PPA observations recommenced when restrictions were lifted.

Cluster (ii): General principles

This section covers the four guiding principles of the UNCRC, which are Articles:

- 2 - non-discrimination
- 3 - best interests of the child
- 6 - life, survival and development
- 12 - respect for the views of the child

Article 2

The UNCRC applies to all children without discrimination of any kind, such as that relating to ethnicity, gender, religion, language, opinions, disability or any other status. Measures should be taken to protect children against all forms of discrimination.

At CHS we do everything we can to protect children from discrimination. Our vision, mission and values set out our commitment to provide a consistent level of service to all children and their families and to improve outcomes for everybody who comes, or may come, to a hearing. We treat everybody according to their individual needs and ensure our information and services are accessible to all.

Our ambition is to promote and celebrate an equal, diverse and inclusive culture within the CHS community through a process of continual engagement, communication, training and development. We continue to mainstream our equalities duties across all aspects of our work by publishing equality information to demonstrate our compliance in meeting the general and specific public sector equality duties in the Equality Act 2010 and our performance against our own Equality Outcome measures.

Our **Equality, Diversity and Inclusion Working Group**, which includes CHS staff, volunteer community members, partner organisations and young people with lived experience of the hearings system, developed our **new Equality, Diversity and Inclusion Strategy**,¹⁴ published in October 2021. Key areas of this policy that reflect our commitment to non-discrimination and the protection and promotion children's rights are as follows:

¹⁴ [Equality, Diversion and Inclusion Strategy](#)

- Outcome 1 – Providing training and development opportunities for the CHS community to ensure all are current in their knowledge, skills, attitudes and legal obligations concerning equality, diversity and inclusion, and are able to apply these approaches to all aspects of their roles. Having completed mandatory introductory online training on equality, diversity and inclusion, all staff, Area Support Team members, Panel Members and trainee Panel Members can demonstrate and apply awareness of how to support people with protected characteristics when carrying out their respective roles and duties.
- Outcome 2 – Raising awareness of equality, diversity and inclusion across the CHS community will enhance all our roles and lead to more effective decision making, as we proactively engage with our staff members, volunteers and external equality organisations who can support Children’s Hearings Scotland to achieve this aim:
 - 2.2 – We are proactive in raising awareness of equality, diversity and inclusion across the CHS community so that it leads to increased understanding, knowledge and empathy of all protected characteristics.
 - 2.4 – Staff are fully competent and confident in carrying out Equality Impact Assessments on any new or revised strategies, policies and processes that they are responsible for developing.

The **Children (Care and Justice) (Scotland) Bill**, which was introduced to the Scottish Government in December 2022, proposes to address a significant area of inequality regarding referrals to the Children’s Hearings System when a young person aged 16 or 17 has committed an offence. These changes are welcomed by CHS, and we have responded during the initial consultation phase and given evidence in person to the Scottish Parliament’s Education, Children and Young People Committee.

As previously discussed, we strongly support these proposals and believe it is important to ensure equal treatment for all children in Scotland. All children should be supported based on the fundamental Kilbrandon principle of ‘needs, not deeds’ and should be provided with intense support packages to aid rehabilitation, not subjected to punishment that may not address the underlying behaviours. We continue to monitor the progress of this bill carefully and remain

steadfast in our view that all young people under the age of 18 should be treated the same.

We use a **Complaints and Concerns Tracker** to monitor any concerns raised, including discriminatory conduct towards a child, young person or their family, on the basis of belonging to a protected characteristic group. Any complaints raised are addressed in line with Scottish Public Services Ombudsman (SPSO) requirements.

We also ensure that our communications with children and their families are accessible. We ensure child-friendly language is used, and utilising additional methods of conveying information such as animations and videos being published alongside various corporate reports to enhance understanding. We have increased our use of social media and introduced a new section on our website aimed specifically at children.¹⁵

Article 3

The best interests of the child must be a top priority in all the decisions and actions that affect children. This lies at the heart of **CHS' purpose, vision and values**.

We continue to apply our three overarching principles to every decision in every hearing. The first of these principles is the need to safeguard and promote the welfare of the child throughout childhood. This is the paramount consideration that Panel Members must apply when making decisions about a child.

Our volunteer Panel Members continually undertake **training and development** to make sure that they are well equipped to make decisions in the best interests of children and that they know how to conduct hearings fairly. They are continually kept informed about any changes to legislation and practice through practice updates.

In addition, we continue to consider the appointment of an independent **Safeguarder** at every hearing. The role of the Safeguarder is to safeguard the interests of the child to whom the hearing relates by ensuring that:

- The child's rights are protected;

¹⁵ [Children and Young People \(chscotland.gov.uk\)](http://chscotland.gov.uk)

- The views of the child are established and communicated to the hearing; and
- Any proposals being made are in the child’s best interests.

If a Safeguarder is appointed by the hearing they must prepare a report and include one or more of the following:

- Anything the Safeguarder thinks is relevant to the consideration of the hearing;
- The child’s views so far as practicable in light of the age and maturity of the child; and
- Any issue which the Safeguarder has been asked to consider by the hearings system.

CASE STUDY: Promise Programme – Improving Reasons Project

As part of our Promise Programme, we launched our Improving Reasons Project in May 2022. We recognised that for children to be confident that all decisions were being made in their best interests, our written reasons for our decisions needed to be clearer, more concise and written using language that all children and their relevant persons could comfortably relate to.

A framework for assessing the quality of reasons being recorded by panels has been created and tested on an anonymised sample of Record of Proceedings from across Scotland. We await the further recommendations of the Hearings System Working Group in the near future before we agree the best way to roll this framework of quality assessment and improvement across all our regional areas.

Article 6

All children have a right to life and organisations must do all they can to ensure that children survive and develop to their full potential.

The **role of a Panel Member** is to listen to children and to make decisions with and for them to ensure their needs are being met. Panel Members ensure that children can achieve their full potential and have a happy and fulfilling childhood. Children’s Hearings help children to access the help and support they need to thrive.

The **training** we provide for Panel Members focusses on how experiences can impact a child throughout their lifetime, covering issues such as adverse childhood experiences, trauma, attachment, maintaining family contact, improving relationships and child development.

Enhancing the wellbeing of children is at the heart of everything we do, and we **work collaboratively** with, lead and influence partner agencies in the hearings system and wider community, to ensure that the hearings system supports them to develop to their fullest potential. Hearings and the National Convener can make sure that the decisions made in hearings are implemented by initiating a **process of formal notification and enforcement**. This is covered [below at Article 20](#).

Article 12

Every child has the right to form their own opinion and for their views to be listened to and taken seriously. In particular, a child has a right to be heard, either directly or through a representative, in legal proceedings and their views must be considered when people are making decisions about things that involve them.

Children are encouraged to actively participate in their hearing. The second of our overarching principles state that in a hearing, ‘the child must be given the opportunity to express a view and this view must be taken into account in line with the child’s age and maturity.’¹⁶

At Children’s Hearings Scotland, we work to help children of all ages express their views. This approach was supported by enactment of the **Children (Scotland) Act 2020** which amended existing legislation that had stated only children aged 12 years or over were considered able to form and express their own views. This is discussed in more detail in [Cluster \(iii\) – Civil rights and freedoms, Article 13 \(freedom of expression\)](#).

All children have a **right to attend** all stages of their hearing. The only circumstances in which these rights can be removed is when a hearing is considering withholding specific information from the child, or if the child’s behaviour is violent, abusive or disruptive.

¹⁶ [Children’s Hearings \(Scotland\) Act 2011, s27](#)

A pre-hearing panel can be called to consider excusing a child from their **duty to attend** an upcoming hearing if, taking account of the age and maturity of the child, the child would not be capable of understanding what happens at the hearing.

In September 2022, with the support of leading early years experts at CELCIS, there was a mutual agreement made between SCRA and CHS that pre-hearing panels to excuse a child based on their age and maturity would no longer be required for children under five years old, if the only reason for the pre-hearing panel being called is their attendance. This avoids the need for additional hearings and ensures that careful consideration is given to how all children aged five and above will be helped to give their views at their hearing.

Panel Members must be sure they have heard the views of the child before they make a decision. From November 2020, all children must be offered the services of an **advocate** who can help them ensure their voice is heard. The chairperson of all hearings to which a child attends, now has a **legal duty to ensure that their right to this service has been explained to them**. The decision whether or not to engage with an advocate is solely at the discretion of the child.

If the Chairperson of the hearing feels that somebody within the hearing is **preventing the views of the child being heard**, or their presence is causing or likely to cause, distress to the child, they can decide to **exclude** that person from the hearing. These powers were strengthened by the enactment of the Children's (Scotland) Act 2020 and was a power that was emphasised during our substantial **refresher training course delivered to all volunteers in 2022**.

Children and their families can also ask for **Panel Member continuity** which is a request to have one of the same Panel Members at their next hearing. This may encourage a child to participate in their hearing if they feel more confident or comfortable speaking to a particular person.

We strive to seek out opportunities for children with lived experience of the hearings and care system to be involved in our work. A key step taken during the period covered by this report was the creation of the **CHS Participation Group**, comprised of people with lived experience and our Children's Rights and Inclusion Coordinator. Since January 2022, this group have met bi-monthly and

Requests for continuity

Year	Number requested
2020/21	181
2021/22	635
2022/23	1,434

been involved in **consulting, co-designing and providing feedback on the work of CHS**. Examples of the group's invaluable contributions are:

- Development and implementation of our Children's Rights and Inclusion Strategy;
- Creation of our Participation Standards;
- Development of our Participation Framework;
- Development and implementation of our Equality, Diversity and Inclusion Strategy;
- Creation of our Lived Experienced Recruiter information pack;
- Consultation on responses to The Promise, The Hearings System Working Group and the hearing's system redesign project;
- Sitting on interview panels for new members of the CHS National Team and to select members of volunteer Area Support Teams;
- Consultation on the re-design of Pre-Service Training in 2021 and 2022
- Co-design of the Participation Hub; and
- Consultation on development of our new [child-friendly feedback and complaints portal](#).

CASE STUDY - Animations – What is important to us!

In December 2022, three animations were released which were co-designed and co-produced by members of the CHS Participation Group, Our Hearings, Our Voice and VIP – Voice and Inclusion Project. These animations were created to be used as reminders for Panel Members of what is important to people with lived experience.

The 'Ways to make a Hearing Positive,' 'What we want Panel Members to Remember' and 'Top Tips for Panel Members' animations are a powerful example of how our commitment to collaborative working with children can amplify the voice of those with lived experience.

Watch them here:

[Ways to make a hearing positive](#)

[Key Learnings](#)

[Top Tips for Panel Members](#)

We recognise **people with lived experience provide invaluable input in the selection of new Panel Members.**

They help shape scenarios for candidates to discuss, sit on interview panels, score and select candidates and attend local welcome evenings.

"It was empowering. I felt I had an important responsibility to make the right choices."

Lived Experience Recruiter
Feedback 2022

To increase, improve and embed the engagement of lived experience people in our local Panel Member recruitment process remains a key priority. Prior to participating in recruitment and selection, all our Lived Experienced Recruiters receive training and support from CHS Learning Academy and the Children's Rights and Inclusion Co-ordinator, as well as local support from their respective Area Support Teams.

For our **2022 recruitment campaign, bespoke welcome sessions delivered by Who Cares? Scotland were attended by 50 people with lived experience and 80 Area Support Team members who would be working alongside them.** Of the 50 people with lived experience who attended this welcome session, 32 went on to participate fully in the Spring 2022 recruitment campaign.

CASE STUDY - Involving Lived Experienced Recruiters in Aberdeenshire

The Lived Experienced Recruiter who works alongside our Aberdeenshire Area Support Team has been extremely active for the last three recruitment campaigns. The skills and experience this has given her has helped contribute to her being promoted in her employment, a step we think was thoroughly deserved.

Cluster (iii): Civil rights and freedoms

This section covers Articles:¹⁷

7 - birth registration, name, nationality and care

8 - protection and preservation of identity

13 - freedom of expression

16 - right to privacy

17 - access to information and mass media

37 - inhumane treatment and detention

39 - recovery and rehabilitation of child victims

Article 7

Every child has the right to be registered at birth, have a name and nationality and, as far as possible, to know and be cared for by their parents. This is supported by CHS activity and one of the **fundamental principles** of the hearings system is that '**parents are usually the best people to bring up their own children and should be encouraged and enabled to do so wherever possible.**'¹⁸

Where it is not possible for a child to stay with their parents, the hearing will make decisions that support them to have a fulfilling and positive childhood. Hearings must listen and take account of the views of both children and their parents when making decisions about who should care for them.

Article 8

The Children (Scotland) Act 2020, which came into force on 26 July 2021, changed existing legislation on the way **sibling relationships** are promoted when families live apart, a change that CHS had long been supportive of. Individuals involved in a child's life can now ask to be deemed a **Participation Individual at a children's hearing** if all the following criteria are met:

- The individual is living with or has lived with the child;

¹⁷ How CHS contributes to Article 28 (right to education) is set out in Cluster (vii) - education, leisure and culture. Articles 14 (freedom of thought, conscience and religion) and 15 (freedom of association) do not directly apply to our duties.

¹⁸ [Practice and Procedure Manual, p171.](#)

- The individual and the child have an ongoing relationship with the character of a relationships between siblings (whether or not they have a parent in common);
- The children’s hearing is likely to make a decision significantly affecting contact or the possibility of contact between the individual and the child; and
- The individual is capable of forming a view on the matter of contact between the individual and the child.

Participation Individual status can be granted either by the SCRA Reporter, or via a panel decision at a pre-hearing panel, having considered the views of the child and Relevant Persons. If someone is deemed a Participating Individual, they have the right to be notified of any upcoming hearings, to be given the opportunity to submit a report or other documentation to that hearing, to receive certain documentation submitted by others to the hearing, to attend the part of the hearing that will be discussing their contact with the child (on authorisation from the chairperson), to bring a representative with them to the hearing and to receive a copy of any decisions (and reasons given) by the panel in relation to their contact.

A Participation Individual does not have any appeal rights in terms of decisions made regarding their contact with the child, but they can ask for any compulsory supervision order (CSO) that includes a measure of contact between themselves and the child to be reviewed.

We see this as a huge step forward in upholding the rights of a child to maintain family relationships and updated guidance on this was included in our **2021 revision of our Practice and Policy Manual**. An online learning module was released separately to our volunteer community in July 2021 and made part of Panel Member **mandatory learning** by the National Convener. The importance of this change in legislation was also heavily stressed during **Refresher Training** that was delivered by our Practice and Policy Team to all Panel Members in June 2022. These actions were driven by our **Sibling’s Rights Project**, which formed part of our Promise Programme and ran throughout the reporting period of this report.

Arrangements to maintain and promote family relationships are also discussed below in relation to [Article 37 \(inhumane treatment\)](#) and in [Cluster \(v\) - Family environment and alternative to care, Article 9 \(separation from parents\)](#).

Article 13

Every child must be free to express their own thoughts and opinions and to seek, receive and impart information and ideas in any form or media of their choice.

Before and During a Hearing

A key development in this area has been the introduction of **virtual attendance at hearings**. Prior to nationwide changes in response to the COVID-19 pandemic, if a child wanted to attend a hearing remotely, there had to be a pre-hearing panel to excuse their attendance in person, followed by necessary arrangements to facilitate their attendance virtually.

With the introduction of the Children (Scotland) Act 2020, participation by electronic means has been made far more accessible, giving children greater choice of how they wish to participate in their own hearings. Anyone who has a right to attend a hearing can now request to attend virtually, and provided the SCRA reporter is satisfied that they have good reason to do this or are more likely to be able to effectively participate in their hearing through virtual attendance, this will be facilitated. We also actively **promote other methods where technology can enable children to give their views** to their hearing e.g., the use of an avatar or pre-recorded video which will be played during the hearing.

Guidance on the use of technology to support a child to give their views was included in the 2022 update of our Practice and Procedure Manual, as well as in Refresher Training rolled out to all Panel Members by the Practice and Policy Team in June 2022.

After a Hearing

If a child does not think the decision of a hearing was justified, they can appeal the decision. The chairperson of the panel must inform them of their **right to appeal**, normally within **21 days**.

"In 2021/22, 45% of children and young people who appealed had the children's hearings decisions overturned."

SCRA Statistical Analysis 2021/22

This time limit was **increased to 42 days** (in almost all circumstances) by the Coronavirus (Scotland) Act 2020 **to protect children's rights** while restrictions were imposed during the COVID-19 pandemic. We supported this legislation and ensured all Panel Members received training on these changes and ensured children were informed correctly at the end of their hearing.

CASE STUDY – Child-Friendly Feedback

Our **Complaints Handling Policy and Procedure** reflects our commitment to improving outcomes for children across Scotland through listening to feedback and reflecting on our activities, giving us the opportunity to learn and improve.

Our **new child-friendly feedback** section on our website makes it more accessible for children to give us their feedback. This was designed with input from our CHS Participation Group and aims to encourage children attending hearings to tell us what we did well and what we could do better. Follow this link to find out more:

[Give feedback as a young person \(chscotland.gov.uk\)](https://www.chscotland.gov.uk)

Article 16

Every child has a right to privacy and to have their private, home and family life protected.

Hearings can sometimes involve a large number of people because, in addition to the child, a number of individuals have a right and/or a duty to attend (such as their parents or representative) and other people involved in a child's life may also attend.

"There should be less professionals at my hearing, and adults should leave my hearing when they don't need to be there."

Our Hearings, Our Voice
40 calls to action

The chairperson of every hearing has a **legal duty to ensure the number of persons present in a hearing at the same time is kept to a minimum**. New guidance was provided to our Panel Members in 2021 and 2022 to ensure a child's right to privacy was considered at every hearing. We recognise that large

numbers of unfamiliar people can be intimidating for children and may prevent them from being comfortable when sharing their views.

Journalists have a right to attend a hearing, however the Children (Scotland) Act 2020 gave the chairperson of every hearing **more powers to exclude** journalists from any part of the hearing where they are preventing the panel from obtaining the views of the child, or if the presence of the journalist is causing, or is likely to cause, significant distress to the child.

Sometimes a hearing decides that information about a child should remain private, for example, where they live or go to school. If a hearing makes a **non-disclosure** decision that means a child is to move to an address other than their home and is confident that disclosing information about the whereabouts of the child or other information is likely to cause significant harm to the child then a 'non-disclosure request' can be made to prevent this information being seen by others.

"In 2022, 816 children had a non-disclosure order attached to either an interim order or CSO."

SCRA Statistical Analysis 2021/22

CASE STUDY - Consultation on the Children (Care and Justice) (Scotland) Bill

This Bill looks to increase the information that is currently shared with victims of offending behaviour committed by children and young people. In our consultation response to these changes, we strongly argued that disclosure of information regarding the decisions made by a Children's Hearing to someone outwith that child's family is an infringement of privacy and should be carefully considered.

We propose that before information is disclosed, a hearing should consider whether this is appropriate and make a formal decision on this only once they have obtained the views of the child on this matter. At all times, the welfare of the child for whom the hearing has been called should be considered paramount.

We believe this to be section of this Bill that requires further consideration and will continue to argue for the privacy of children within the hearings system.

Panel Members have access to sensitive information about children and their families so that they can carry out their role as decision-makers. A key responsibility of all members of the CHS community is to keep information safe.

All members of the National Team and volunteer community are required to undertake, and to pass, **mandatory online Information Governance training**, with refresher training being mandatory every two years. The training focuses on keeping information safe, by ensuring all information is stored, used and shared appropriately, and also covers cyber awareness and security.

CHS updated this training course in 2023 to ensure it remains fully up to date with data protection requirements, which protects the privacy of everyone involved in a children's hearing.

Article 17

Every child has the right to reliable information from a variety of sources and that information should be provided in a way that children understand. It also aims to ensure children are protected from materials that could harm them.

We provide information about CHS and the hearings system on various platforms and in a variety of formats. We recognise that children have different learning styles and abilities, and we try to **ensure our communications are accessible to all**. To help us achieve this, we have involved people with lived experience in designing our published reports.

Our **website** provides children with information about attending a hearing, including what happens, what their rights are and who can help them prepare for a hearing. Our website will soon introduce a new section dedicated to increasing participation and understanding of children involved in the hearings system.

We have continued to increase our use of **social media** to make it easier for children and their families to access information about CHS.

Article 37

Every child has the right to be protected from cruel or degrading punishment and should only be arrested, detained, or imprisoned as a last resort and for the shortest time.

The hearings system is **welfare rather than punitive** in its basis. The principle of **minimum intervention** - that 'an order is only to be made if it is considered better for the child than if no order were made' – is the third overarching principle in a Children's Hearing and is at the core of Panel Member decision-making.

Hearings can make decisions that restrict the liberty of a child, but these are only made as a last resort and in a small proportion of cases. In order to implement such decisions, strict legal tests need to be made applied and Panel Members are required to explain how these have been met.¹⁹

CHS recognises that any decision to restrict a child's liberty is significant and the impact is wide ranging. These options are not considered punishments but ones that best address the needs of children who may require intensive support or require restrictions to keep them, and others, safe. In total, between April 2021 and March 2022, only 65 of the compulsory supervision orders made across the year, included secure authorisation.²⁰ This amounts to only 0.9% of all orders in place on 31 March 2022.

CASE STUDY - Consultation on the Children (Care and Justice) (Scotland) Bill

This bill seeks to lower the threshold for a Movement Restriction Condition (MRC) to be imposed on a child. In our response to the Scottish Government on consultation of this bill, we stressed that a Movement Restriction Condition, which restricts a child's liberty, should only be used where there is clear evidence it will safeguard them and that it should not be used as a punitive measure. MRCs should only be used alongside an intensive support package that when combined, will lead to better outcomes for any child who is in conflict with the law.

Article 37 also states that children should be treated with respect and care and should be able to stay connected with their family. This is supported by the Children's Hearings (Scotland) Act 2011, which stipulates that **every hearing** making or continuing an order must consider whether it is necessary and in the best interests of the child to include a '**direction of contact**' between them and

¹⁹ [Children's Hearings \(Scotland\) Act 2011, s83\(6\)](#)

²⁰ [SCRA's Official Statistics 2021/22](#)

any other person or class of persons. They must consider contact with any parent or sibling who the child does not live with.

How CHS contributes to maintaining and promoting family relationships is also discussed in at [Cluster \(v\) - Family environment and alternative to care, Article 9 \(separation from parents\)](#).

Article 39

Every child who has suffered from adverse childhood experiences, including neglect, exploitation or abuse by those who are supposed to care for them shall receive special support to help them recover their health, dignity, self-respect and social life.

Panel Members are trained to recognise signs of adverse childhood experiences, understand the impact on children, and to make the best decisions to meet their needs. In March 2023, we rolled out new **Trauma Informed Training** modules to our Panel Member communities, in partnership with NHS Education Scotland. The first milestone is to have 80% of the Panel Community complete the training modules by July 2023.

"In 2021/22, 3,404 children were referred to a hearing due to lack of parental care, and 751 because they were victim of a Schedule 1 offence."

- SCRA Statistical Analysis 2021/22

This delivery of training comes at the end of a large project undertaken by CHS as part of our Promise Programme. This **Trauma Responsive Project** involved members of our volunteer community alongside staff members and began by identifying 'Trauma Touchpoints' throughout the hearings process.

At each touchpoint, we analysed if our current practice could be improved to lessen the risk of re-traumatising people attending the hearing, identifying a range of ways in which our communication and actions within the hearing room can be more 'trauma informed.' The conclusions drawn from this project will form the basis of practice guidance updates, used to shape future standalone training courses and shape future re-design of existing training courses such as Pre-Service and Management of Hearings.

Parallel to this, **baseline measures** were identified to quantify how ‘trauma-informed’ our Panel Member and staff community felt they were, which will be analysed against the same benchmarks once the Trauma-Informed Practice Training modules above have been fully completed.

CASE STUDY – Trauma-Informed Practice – Pre-Hearing Discussions Test for Change


During the pre-hearing discussion, which is held approximately 30 minutes before a hearing begins, each Panel Member will highlight their key areas they wish to ask further questions and identify any specific topics that they anticipate may be challenging during the hearing. This then forms a collective agenda which broadly shapes the main discussion of the hearing and hopefully leads to Panel Members having enough information to make their decision.

A test for change programme was launched in March 2023 whereby Panel Members in three local authority areas were asked to consider the following four questions as part of their pre-hearing discussion, to frame the hearing to be more trauma informed.

- What traumatic events have happened to this child and family?
- How did these events affect them or change their life?
- How might this affect them in the hearing room today?
- How does this mean I should act? What should I do or not do today?
What language should I be careful using?

At the end of every hearing, each Panel Member must give their individual decision regarding whether a compulsory supervision order is required to provide protection, guidance, treatment or control to the child. Panel Members must verbally give **clear, concise reasons for each decision** they make and once all Panel Members have done this, the chair must then inform the child and Relevant Persons what the overall unanimous or majority decision of the hearing was. This means that the child may hear the same decisions and reasons given multiple times.

In cases where the reasons refer directly to past adverse experiences, this can be unnecessarily traumatic. Due to this, **practice guidance** was changed in 2022 to allow Panel Members to say **“I agree”** with the decisions and reasons made



by one of their fellow Panel Members, should they wholly and without exception have concluded the same independent decision. We believe this to be a positive step towards protecting a child from further harm to their mental welfare and promotes their right to support to recover from past adverse experiences.

Cluster (iv): Violence against children

This section covers **Article 19**.²¹

Article 19

Every child should be protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.


Any decisions by the hearing will only be made after Panel Members have taken into account the views of those experiencing the violence, abuse and neglect. If it is in the best interests to do so, Panel Members may decide to:

- Continue a child protection order that is in place to protect a child from actual or potential harm and neglect.
- Limit or prohibit contact with individuals who place them at risk of abuse, violence or neglect.
- Move a child to a safer home environment.
- Prohibit the disclosure of an address if they think disclosing this is likely to cause significant harm to the child.

Threats to safety should be considered in terms of physical safety and mental or emotional safety. Emphasis is placed on a hearing being for the child and therefore should be attended by the child to ensure their views are heard. If, however, attendance at a hearing may risk the mental, moral or physical welfare of that child, a panel can decide to **excuse** them of their duty to attend. A child can also be excused if they have been the victim of an assault or schedule one offence at the hands of someone who has a right to, and is likely to, attend the hearing.

The **2022 update of our Practice and Procedure Manual** highlighted a hearing's ability to do this, whilst reinforcing that a fundamental consideration before making this decision should be how the views of the child will be obtained in their absence.

²¹Articles 37 (no child subject to cruel, inhumane and degrading treatment) and 39 (recovery and rehabilitation) are covered in Cluster (iii) - Civil rights and freedoms. Article 28(2) (school approaches to managing behaviour and discipline) does not apply to CHS activity.



Although a Relevant Person has a right and a duty to attend all stages of a children's hearing, a hearing may decide to exclude any relevant person and/or their representative from a hearing if satisfied that:

- Exclusion is necessary to enable the hearing to ascertain the views of the child or another relevant person; and/or
- Their presence is causing or is likely to cause the child or another relevant person significant distress.

Our Practice and Procedure Manual now contains a section on **managing complex hearings**, with parts dedicated to enhancing Panel Members' understanding of domestic abuse and coercive control and how it can affect children and families who attend children's hearings.

Cluster (v): Family environment and alternative care

This section covers Articles²²:

- 9 - separation from parents
- 20 - children deprived of a family
- 21 - adoption
- 25 - review of treatment in care
- 27 - adequate standard of living

Article 9

Children must not be separated from their parents against their will unless it is in their best interests and, if they are separated, they have a right to stay in contact unless it could cause them harm.

If Panel Members decide that it is in the child's best interests to be separated from their parents, they have a **legal duty** to consider what arrangements should be put in place to help maintain relationships that are important to the child.

All Panel Members receive **training** about the importance of having legal arrangements in place to enable children separated from their parents to be able to communicate with them, either through meeting them face-to-face, speaking over the phone or maintaining contact online. This communication plays a critical role in maintaining relationships, promoting a sense of identity, and providing reassurance about others' wellbeing, health or safety.

Article 20

If a child cannot be looked after by their immediate family, they should be given special protection and assistance, including being provided with alternative care that is continuous and respects the child's culture, language and religion.

²²Article 19 (protection from all forms of violence) is presented in Cluster (iv) - Violence against children and Article 39 (recovery and rehabilitation) is presented in Cluster (iii) - Civil rights and freedoms. This section does not reference Articles 5 (parental guidance and a child's evolving capacity), 10 (family reunification), 11 (abduction and non-return of children) and 18 (parental responsibilities and state assistance) as they do not directly apply to CHS' duties.

Although CHS has no control over the services provided for children that attend hearings, the decisions Panel Members make can **impose a duty on local authorities** to implement the terms of a compulsory supervision order. It may become clear, for example at a review hearing, that something other than the measure of supervision directed at a hearing has happened. The implementation authority may have taken other action and may appear to be in breach of a duty placed on them by a children's hearing. In these circumstances, section 146 of the 2011 Act allows a hearing to direct the National Convener to take action to enforce the authority's duty.

"During the period 2020-23, three requests to serve notice were made."

CHS Annual Reports, 2020/21, 2021/22 and 2022/23

Article 21

The process of adoption should be lawful and safe and prioritise the best interests of the child.

Any recommendation for adoption coming before a hearing will have been based on a comprehensive social work assessment that has already been presented to the local authority Adoption and Permanence Panel. The hearing's role is to **provide advice to the Sheriff** and local authority as to whether it supports this course of action for a child. Support for adoption will only be given if it is considered best for the child not to live with one or both parents for the rest of their childhood.

"In 2021-22, 612 hearings were held to give permanency-adoption advice representing 3% of all hearings."

SCRA Statistical Analysis 2021/22

A dedicated training module on the topic of **permanence** was launched in Autumn 2020 and remains available to all our volunteer community as a reference via the Learning Academy website.

"This module is excellent. Emily's case example is so helpful, and the trauma informed statements and questions are perfect."

Linda Davidson, Permanence Consultant (CELCIS)

Article 25

Every child has the right to regular review of their treatment, the way they are cared for and their wider circumstances.

In order to make these decisions, Panel Members must feel that they have **sufficient information to form a judgement** on what is the best course of action at each review. If they do not feel they have sufficient evidence, they must defer the hearing. The **Age of Criminal Responsibility (Scotland) Act 2019**, which came into force in December 2021, placed a duty on Panel Members who find themselves in this situation to always **consider whether any additional reports will be required** in order to obtain this missing information either ahead of, or at the next hearing. If this information cannot be obtained from professionals already involved in the child's life, then Panel Members can commission an **independent report** to be written. These additional powers go further to ensure that every review taken for every child is thorough and based on the most up to date, relevant information, protecting their right to a fair and regular review of their care plan throughout their time in care.

Requests for Independent Reports

Year	Number requested
2020/21	12
2021/22	24
2022/23	33

Prior to June 2020, the bank of independent report writers available when Panel Members require independent reports was managed by CELCIS (Centre for Excellent for Children's Care and Protection). At the point management of this bank of professionals was passed to CHS, there were 7 members. Recognising the need to expand the expertise, availability and locations of the bank members, CHS launched a **rigorous recruitment campaign** where all potential candidates were required to complete an application form, attend an interview and provide references. This process ensured we fully understood each writers' specialisms which is crucial to ensuring we commission the right person for each report.

CASE STUDY - Independent Report Writer Recruitment 2023

The number of requests for Independent Reports has steadily increased over recent years. Due to this, we launched a standalone recruitment campaign, aimed solely at attracting new report writers, with different specialities and backgrounds to our bank in March 2023. It is hugely important that when an independent report is requested, a highly skilled professional is available to fulfil this request in a timely manner, upholding and protecting a child's right to review of their treatment in care.

We were delighted to recruit 18 new professionals bringing the total number Independent Report Writers to 38. Their specialities include:


- Social Workers (child and family and criminal justice)
- Clinical Psychologists
- Educational Psychologists
- Forensic Psychologists
- Mental Health Professionals
- Psychiatrists

Although compulsory supervision orders usually last for one year, if there is good reason, they can be reviewed earlier. A child and all relevant persons may **request a review of a compulsory supervision order** after three months and at any time thereafter. The implementation authority may request a review at any time. If a hearing decides that a child needs to live in secure accommodation, a review hearing must be held within three months of the Compulsory Supervision Order being made.

If Panel Members are concerned that a child's plan is not progressing as it should, they can make a formal decision to direct the reporter to bring the hearing back to an **early review** at any point after a Compulsory Supervision Order has been put in place. This ensures that no child is subject to drift and delay in their care plan and that they are always receiving the best care and protection possible, at the correct time.

Article 27

Every child has a right to a standard of living that meets their physical and social needs and supports their development.



While CHS is not directly involved in service provision, Panel Members make decisions that help children access support and services to help ensure they are living in a caring and loving environment, which is of a standard that lets them grow and flourish, as well as promoting recovery and social integration.

Cluster (vi): Basic health and welfare

This section covers:²³

Article 23 – children with a disability

Article 24 – health and health services

Article 33 – drug abuse

Article 23

Any child with a disability has the right to a full and decent life with dignity and additional support.

Panel Members are expected to treat all people with respect and to be polite and considerate. They must offer assistance and communicate effectively with anybody at the hearing with a disability and ensure that everybody coming to a hearing has the same opportunity to participate and be heard. They are also expected to be aware of, and respond appropriately to, differences in cultural views of disability.²⁴

In June 2022, a new learning module on our Learning Academy was launched on **neurodiversity**, developed in partnership with FASD Hub Scotland and Salvesen Mindroom Centre. The learning outcomes of this course, which was offered to all Panel Members and CHS Staff and covered topics such as identifying what neurodiversity means, recognising and using key terminology, identifying key challenges and strengths associated with common neurodevelopmental conditions, and applying basic approaches which are known to support neurodiverse children in a hearing situation.

Children, and others, attending hearings can have a wide range of disabilities and we have worked to **remove barriers within hearings**. So that every child feels comfortable and able to participate freely, we try to ensure everybody feels welcome, included and informed when attending a hearing. For example, we have:

²³Article 6 (life, survival and development) is covered in Cluster (ii) – General Principles and Article 27 (adequate standard of living) is covered in Cluster (v) – Family environment and alternative to care. Articles 18 (parental responsibilities and state assistance) and 26 (social security) do not apply to CHS activity.

²⁴ [Practice and Procedure Manual, page 283](#)

- Worked alongside SCRA to redesign hearing rooms, ensuring they are fully accessible and child and autism friendly;
- Provided options for alternative methods of communication for children who are non-verbal (such as sign language interpreters, the use of drawings, whiteboards, or flashcards); and
- Trained our volunteer community in how to minimise barriers.

Article 24

Every child has a right to the best possible health and care services.

Although CHS does not directly provide any health services, the decision a hearing makes can help ensure children access the medical and health services they need.

Article 33

Every child has a right to be protected from the use of narcotic drugs and psychotropic substances.


Under Section 67 of the Children’s Hearings (Scotland) Act 2011, **children can be referred to a hearing for a number of reasons related to drug misuse.**

They can be referred because:

- They, or the adults responsible for caring for them, are involved in, or at risk of, substance misuse;
- They are likely to suffer unnecessarily, or the health or development of the child is likely to be seriously impaired, due to lack of parental care which may result from their parent’s addiction to drugs, as well as other factors; or
- A Schedule 1 offence has been committed in respect of the child, including harmful behaviours, such as giving a child drugs.

“In 2021-22, six children were referred to a hearing due to the misuse of drugs.”

SCRA Statistical Analysis 2021-22



The training we provide ensures Panel Members have a sound **understanding of substance misuse issues**, an awareness of the impact on children and that they are able to **make decisions that protect children from further negative impact**. Our pre-service training covers substance misuse amongst children and carers and our Area Support Teams have run local learning and development sessions for example, on Alcohol and Drugs and Children Living with Parental Substance Use.

Cluster (vii): Education, leisure and culture

This section covers **Article 28**.²⁵

Every child has the right to an education.

Panel Members' decisions can help children to **access their right to education**, allowing them to develop to their fullest potential and achieve their aspirations. Although hearings do not provide services, their decisions can include measures to increase attendance or access alternative education provision.

Even if a child has been excluded from school or has withdrawn prior to being excluded, an education authority has a duty to continue to provide education for them. **A hearing can decide that an education authority is failing to comply with this duty and can require the National Convener to refer the matter to Scottish Ministers.**

"In 2021-22, 528 children were referred to a hearing for failure to attend school without reasonable excuse. The average age of these children was 12.2 years."

SCRA Statistical Analysis 2021-22

However, this is a rare occurrence, with no instances of this during the period 2020 - 2023.

Although hearings are relatively short, they do take place during school hours. This means that children can miss lessons and feel stigmatised.²⁶ The introduction of **virtual hearings** has significantly decreased these issues, as children can be offered the choice of attending their hearing from a private room in school, rather than at their local hearing centre. This can drastically reduce the impact on their education, particularly in situations where multiple hearings are required for a substantive decision to be made.

We continue to work with our partner organisations to consider how we can reduce any negative impact on children caused by how hearings operate.

²⁵Article 30 (children of minority or Indigenous groups) is discussed in Cluster (viii) – Special protection measures. Articles 29 (goals of education) and 31 (leisure, play and culture) do not directly apply to CHS activity.

²⁶ [The Promise, page 39](#)

Cluster (viii): Special protection measures

This cluster focuses on groups of children who are marginalised or find themselves in vulnerable situations and require extra help and protection. All of the children and families within the hearings system are considered to be in vulnerable situations.

This section covers Articles:²⁷

- 22 - refugee children
- 30 - children of minority or Indigenous groups
- 32 - child labour
- 34 - sexual exploitation
- 36 - other forms of exploitation
- 40 - juvenile justice

Under **Article 22**, children with refugee status are entitled to special protection and **Article 30** includes the right to learn and use the language, customs and religion of their family.

Our **legislative and organisational frameworks** are designed to ensure that all children receive a consistent level of service and that everybody is treated according to their individual needs.

Effective participation of children is an essential component of the hearing. Panel Members can support a child with refugee status by deciding to defer proceedings to arrange for an **interpreter** if it is apparent they do not have adequate language skills to participate or if they would prefer to speak in their own language.

How CHS ensures all children, including those with refugee status, do not experience discrimination within their hearings is found in [Cluster \(i\) - General Measures of Implementation, Article 2 \(non-discrimination\)](#).

²⁷CHS activity in relation to Article 33 (drug abuse) is presented in Cluster (vi) – Basic health and welfare. Articles 37 (no child subject to cruel, inhumane, or degrading treatment) and 39 (recovery and rehabilitation) are presented in Cluster (iii) - Civil rights and freedoms. Articles 35 (abduction, sale and trafficking) and 38 (war and armed conflicts) do not apply to CHS' work.

Under **Articles 32, 34 and 36**, children have a right to be protected from child labour and sexual and other exploitation.

CHS' **national training** programme ensures Panel Members understand exploitation issues, an awareness of the impact on children and are able to make decisions that protect them from further negative impact. This is supplemented by **local learning and development sessions** run by Area Support Teams, recent examples being sessions on Child Sexual Abuse, Sexual Exploitation and Grooming of Young People, Young People with Problematic Sexual Behaviour and Child Protection.

Article 40 states children should be dealt with outwith the criminal justice system and the response should be appropriate to their wellbeing and proportionate to their circumstances and offence.

Under s.67(2) of the Children's Hearings (Scotland) Act 2011, children can be referred to a hearing if the child has committed an offence and, under the Age of Criminal Responsibility (Scotland) Act 2019, only if the child is at least 12 years old.

"In 2021/22, 2,339 children were referred to the Reporter on offence grounds."

SCRA Statistical Analysis 2021-22

We **work collaboratively with, lead and influence partner agencies** in the Children's Hearings System and wider community, to ensure children are not brought into the criminal justice system unnecessarily. At present, a child can only be referred to a hearing up to the age of 16, although the system does accommodate 16 and 17 year old children who are already subject to a Compulsory Supervision Order. However, once a child turns 18, their order will be automatically terminated. CHS has expressed its **support for the Children (Care and Justice) (Scotland) Bill** which looks to address these issues and inequalities by maximising the use of the Children's Hearings System and its needs-based approach.

Article 40 also states that children have a right to legal assistance. Under the 2011 Act, a child is entitled to engage a solicitor at any point of the hearings process, and they can also apply to the Scottish Legal Aid Board for legal assistance.

Legal assistance for representation at a hearing is available to all children if it is to ensure their effective participation. Sometimes arrangements for legal representation have not been made before the hearing and if the panel feel a child may need a solicitor to ensure effective participation, and that the person is unlikely to make the arrangements themselves, they may **direct the Children’s Reporter to provide the child’s contact details to the Scottish Legal Aid Board**, who will then facilitate contact with a Solicitor. In such cases, the hearing has to be deferred to another day.

Sections 191 and 192 of the 2011 Act state that a child is **automatically entitled to legal aid** when:

- An application is made to the Sheriff for variation or recall of a Child Protection Order;
- A hearing is to be held on the second working day after a Child Protection Order has been granted;
- A hearing, or pre-hearing panel, considers that it may be necessary to make a Compulsory Supervision Order including a secure accommodation authorisation; or
- A hearing is arranged after the child is detained in custody by the Police.

Legal aid is also available for the child for any subsequent deferred hearings.


If a child is not accompanied by a solicitor at a custody hearing, Panel Members should ask the child whether they have been given the opportunity to be represented. If they have not, Panel Members should consider a short adjournment of the hearing to allow arrangements to be made, if possible.²⁸

If a child has been prosecuted in a criminal court and been found guilty of, or plead guilty to, an offence, a hearing may be asked to **provide advice to the court** about what it should do as a result of the offence. If it is a case to be heard in a Sheriff Court, it must ask the hearing for advice if the child is already subject to an order. If, on the other hand, the case relates to a serious offence, dealt

“In 2021-22, we held 93 hearings to give criminal advice.”

SCRA Statistical Analysis 2021/22

²⁸ [Practice and Procedure Manual, page 119](#)



with by the High Court, it is at the discretion of the court whether to ask a hearing for advice.

The key decision for the hearing when a court seeks advice is whether they consider it appropriate for the court to send the offence to a hearing for a decision to be made or whether it is more appropriate that the child is sentenced by the court. **The juvenile justice system in Scotland promotes children's hearings as preferable to courts** as a way of dealing with most children who have committed an offence.

We are currently working in collaboration with Clan Childlaw and other organisations who support children in conflict with the law. This study is focused on what good practice from a legal advisor to a child looks like, with the ultimate aim being to strengthen the code of conduct followed by legal advisors within a hearing situation and ensuring children are being represented by people that understand their unique circumstances and needs.

We have partnered with the Scottish Legal Aid Board to provide **Panel Member training** about working with legal representatives in hearings. This topic is also covered regularly within local training events hosted by our Area Support Teams.

Ongoing and Future Improvements

While much of our activity helps promote and protect children's rights, we know we can do more. We need to be ambitious, forward thinking and challenging. We have already demonstrated our commitment to this through *Our Strategic Outlook 2020-2023* and our *Children's Rights and Inclusion Strategy* which have pioneered our drive to embed a rights-based approach to all our work. But we want to do more.

The Promise

In February 2020, the Independent Care Review published its findings in The Promise report. This articulates a vision for Scotland's care system that takes the voice of people with lived experience of hearings and/or care as a key influence and places children's rights at its centre. The key findings for the hearings system to address include:

- The care system must protect and uphold children's rights, decriminalise children and destigmatise care;
- Active listening to children must be at the heart of the hearings system;
- There must be a culture change in decision-making, with children being included in decisions about their lives and being able to bring people they choose to places where decisions are being made;
- The care system must protect relationships important to children, including those with brothers and sisters;
- Every participant in the Children's Hearings System must be trauma-informed and aware;
- Help must be delivered much earlier, and the hearings system must plan to shrink and specialise; and
- The role of volunteers must be assessed and considered.

We have demonstrated significant steps forward in these key areas throughout this report. Children's voices are louder now than they have ever been in the hearings system, and we are listening to what is important to them. However, there are more changes to come – changes which are unknown at the time of writing this report. The Scottish Government's response to the **recommendations of the Hearings System Working Group** will undoubtedly bring more change that we will embrace and embed into our working practices without delay.

What CHS will do next to Progress Children's Rights

Staff Training

CHS will ensure that all staff have completed training on the UNCRC and the implications for policy and practice in CHS. We will also provide bespoke workshops for all staff groups to explore how children's rights can be further embedded and progressed in all of the organisation's functions.

Panel Member Training

CHS will ensure that all Panel Members receive training in children's rights and understand how their legal decision-making must be taken with a focus on children's rights. We will develop a quality assurance framework to assess the extent which decisions are taken through a children's rights lens.

Children's Rights Impact Assessments

We will continue to monitor Children's Rights Impact Assessments to ensure children's rights are considered at every level in the organisation. We will review and publish the changes made to better protect children's rights and help improve their outcomes. We will continue to map out children rights in the organisation to assess which areas we need to improve.

Feedback and Complaints

CHS will embed the new child-friendly feedback and complaints process, seek out new ways to ensure the voice of the child is heard and ensure what they tell us will influence CHS decision making. We will look for interactive ways of engaging children through online platforms and apps, whilst making sure we have the staffing capacity to speak directly to children at a time and place that works best for them.

Participation

CHS will deliver the Children's Rights and Inclusion Strategy as a core component of the Corporate Plan. The plan will be reviewed and revised based on the four key principles of:

- Space - children will be given the opportunity to express a view and CHS will look for new and imaginative ways to encourage and support this process. Wherever practicable this will happen at a time and place that works best for the children participating;
- Voice - resources and significant effort will be made to ensure that children are supported to express their views;
- Audience - children's views will be listened to across the organisation; and
- Influence - what children tell us will be acted upon, and where this is not possible it will be explained. We will develop a clear feedback loop, so children know what has happened as a result of their feedback.

In addition to involving children, we will continue to involve young people over 18 with recent experience of the Children's Hearings System. We will review our current participation opportunities with a view to offer structured development opportunities for the young people that we engage with.

We will work closely with existing groups and networks, such as Our Hearings Our Voice and local authority Champions Boards, and organisations that support children to gather feedback and help build their capacity to influence decision making in the hearings system. We will also work with organisations that support care givers of very young children to ensure they are listened to, and their needs are represented in our practices.

Staffing Resources

We will continue to invest in staffing to work directly with children to gather their feedback and better protect children's rights. We will invest in new roles and development opportunities, whilst also looking for new opportunities for existing staff to better connect with children and help shape CHS' services.

Lived Experience Recruitment

We will continue to involve young people with lived experience in the recruitment of staff and Panel Members, so far as practicable. We will evaluate the current arrangements with a view to providing high quality guidance and support to local areas and the national team.

Legislative Influence

We will continue to champion children's rights at a policy level. We will speak out when we feel children's rights are not being protected and we will be unapologetic in challenging legislation and policy that does not fully respect the human rights of children. We will continue to support the incorporation of the UNCRC into Scots Law and the opportunities that flow from this.

We will continue to influence the design and implementation of the **Children (Care and Justice) (Scotland) Bill**. This Bill is an endorsement of the Children's Hearings System and a recognition that the welfare-based principles the system was built on should be extended to all children. All children should be kept out of the adult criminal justice system, and the Children's Hearings System is a better place to support children in an age-appropriate way. CHS will continue to champion the rights of children to make sure that the resources are available at a local level to support all children that are in need of care and protection.

Hearings for Children

We will continue to work energetically with partners to implement the recommendations of the 2023 Hearings for Children Report to improve outcomes for children. Where improvements can be made quickly we will make these changes, where more structural and legislative changes are required we will champion them with vigour.

Collaboration

We will improve how we collaborate with key partners in the hearings system, such as SCRA, to work together to better protect the rights and experiences of children. In pursuit of this aim, we will continue to deliver our Influencing Strategy and develop new partnerships, platforms and audiences to promote the rights of children and help improve their outcomes.

Glossary

The following list provides simple and quick explanations of terms used in this report.

Adjournment

A short break during the hearing.

Adverse Childhood Experiences (ACES)

Highly stressful, and potentially traumatic, events or situations that occur during childhood that can have lasting impacts on a person's mental health, physical health and general wellbeing.

Advocate

A person who can meet with the child before their hearing and discuss what outcomes they want. They can accompany a child to their hearing for support or can speak on their behalf to help them share their views with the panel.

Area Support Teams (ASTs)

Teams who provide support and guidance to Panel Members at the local level. There are 22 of these across Scotland, with 400 volunteer members.

Child Protection Order (CPO)

A legal order made by a Sheriff in an emergency. It means the child will be kept in a place of safety away from home.

Children's Reporter

The person who decides that a hearing is necessary and invites everyone to attend. They do not take part in the decision-making in a hearing.

Compulsory Supervision Order (CSO)

A Compulsory Supervision Order is a legal document that means the local authority is responsible for looking after and helping the child. It can contain decisions that say where the child must live and other decisions that must be followed.

Contact

Seeing family members (or other people who are important to a child) .

Deferred

Where the hearing decides to delay making a decision to another day.

Foster carer

Foster carers look after children when their parents are not able to do so. The children stay with the foster carer in their home.

Grounds

The legal reasons which the Children's Reporter writes explaining why a child has been referred to a hearing.

Implementation authority

The local council who have to make sure the decisions made by the hearing happen.

Interim Compulsory Supervision Order (ICSO)

A short-term decision when the hearing has decided to delay making a long-term decision to another day, but some decisions could not wait. It might decide where the child lives or how often they see someone important to them.

Learning Academy

Provides a range of training to ensure our volunteer community's learning is current and relevant for the role.

Legal aid

Payment covering some, or all, of a person's legal expenses. This is managed by the Scottish Legal Aid Board (SLAB).

Measures

The order says that something has to happen to support the child, the measures say what those things are. For example, it could be seeing family members more or less or saying where the child should live.

Movement Restriction Condition (MRC)

An electronic tag which limits where a child can go at certain times. It can be a measure on a Compulsory Supervision Order or Interim Compulsory Supervision Order.

National Convener

Leads and oversees the Children's Panel. The current post-holder is Elliot Jackson. He is responsible for recruiting Panel Members across Scotland, and making sure they have the right training and support to make sound decisions in the best interests of children.

Non-disclosure request

When someone asks the hearing to keep information from someone. There must be good reasons.

Panel Members

People who take part in children's hearings and make legal decisions about the care and protection of children. There are around 2,500 Panel Members in Scotland. Three Panel Members sit on each hearing, with one acting as the Chairperson.

Panel Practice Advisors (PPAs)

Specially trained volunteers responsible for observing Panel Members hearings to ensure they are following correct legal procedures and are providing a high quality experience to children and families.

Permanence

When a child has a stable, safe place to live without needing to come to children's hearings.

Relevant person

Parents and other people who have a parental-type role in a child's life.

Safeguarder

Someone who is independent can read the reports and speak to the child and any important people to make sure decisions are being made in the child's best interests.

Schedule 1 offence

A physical, emotional or sexual offence against a child.

Scottish Children's Reporter Administration (SCRA)

The Children's Reporter works for SCRA; they decide if a child might need a children's hearing. They arrange the hearing and send all the papers out.

**Secure accommodation**

A form of residential care which limits the freedom of children who stay there and offers intensive support.

Siblings

Brothers and sisters.

SPSO

The Scottish Public Services Ombudsman.

Substance misuse

Regularly using anything which affects the way you think and act and adversely affects your health. This can be alcohol, illegal drugs, prescription drugs or solvents.



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