

GUIDANCE FOR PANEL MEMBERS

Responding to the needs of infants, babies and very young children



This guidance was developed in partnership with the Centre for excellence for Children's Care and Protection (CELCIS), with support from professionals working in NHS Infant Mental Health Teams across Scotland.

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1 Introduction

1.1 Aim of this guidance

With the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scottish legislation, the rights, voices and experiences of infants, babies and very young children have come into sharp focus.

This practice guidance has been developed to support you to respond to the needs of infants, babies and very young children at children's hearings. It will help you keep key considerations at the forefront of your mind and support you to make informed decisions that are in the best interests of infants and babies, whether they are present in the hearing room or not.

Throughout the guidance we use the terms infants, babies and very young children interchangeably to represent the period of childhood from birth to three years.

This practice guidance will help you to:

- understand the rights held by infants, babies and very young children as well as the barriers they face in having their rights realised
- understand the unique experiences, vulnerabilities and needs of infants and babies in the Children's Hearings System
- reflect on your own experience of sitting on hearings for infants, babies and very young children
- think about practical steps you can take to uphold infants' and babies' rights and ensure their voices are heard in the decision-making process
- improve your confidence in sitting on hearings for infants, babies and very young children

'Early childhood offers a unique period of both opportunity and vulnerability and must, accordingly, be offered special protection.'

Gerison Lansdown, international child rights expert,
from the paper 'Evolving Capacities', 2005

1.2 Why do infants require special consideration?

Given the significant vulnerability of this age group, and babies and infants' complete dependence on adults to uphold their rights and meet their needs, their experience must be represented by the people and reports included in a children's hearing. It is essential that what they need to safely grow and develop is kept at the forefront of decision-making.



2 Case study: Ella's story

This fictional case study was created by Dr Leah Cronin who is Consultant Clinical Psychologist and Clinical Lead in the Infant Mental Health Team in NHS Ayrshire and Arran. This story, written from the perspective of a newborn baby, helps to underline the uniqueness of this early stage of child development, and supports us to consider infants' experiences and needs in a new and interesting way.

Ella's story

My name is Ella. I am 15 days old. When I was born my mummy and I both had drugs in our bodies. I was **sore** and **scared** and **feeling uncomfortable**. My mummy knew I wasn't going home with her. She did not spend time with me in hospital; it was just too hard for her. The nurses looked after me. I saw lots of different faces and smelled lots of different people at a time where **I really wanted gentle, familiar cuddles**. I left hospital with my foster mother, Janet, when I was six days old.



The world feels very scary, big, loud and bright. It feels nice to be cuddled up with Janet on her chest where I can feel her heart beat. **I feel calm and safe.** She strokes my back and kisses my head. **I start to relax.**

The next day I am put in a car seat for long time. I can't see Janet. I can't smell her. I can't feel her heartbeat. **My body is stressed and rigid. I cry and cry.**

My mummy is in a room with me. She is saying she wants to keep me in my car seat. She doesn't want to pick me up, it's too upsetting for her to touch me. Her voice sounds sad and stressed. Her face is scared and sad looking. **I feel stressed. I want a cuddle. I cry, I go tense and red.** Mummy is phoning my daddy and sounds angry. The worker picks me up and talks in a calm voice to me and to Mummy. Mummy cries and starts to shout. My daddy has not turned up to see me. My mummy leaves the room and does not come back. I am put back in my car seat and driven for a long time. I need extra cuddles when I get to Janet's house. **I am exhausted.**

The day after next, I am put back in my car seat for the same long journey. **My tummy feels funny and sore. I want to relax and rest.** My mummy and daddy are not there when we arrive. We wait for some time. I am held by a different worker while we wait. She smells different to Janet. Where is Janet? **My mummy has not come to see me.** I am put back in the car for a long journey home and **cry and cry.** I am 17 days old.

I am now four months old, and I still live with Janet. At my four-month health check-up the Health Visitor notices I seem to be **angry** at Janet. Janet says I often look like this the day after family time. She says I can **wake up loads during the night and seem anxious and wary** the next day. It can take the whole weekend for me to start to accept cuddles again. **It takes some time to seem like myself again.**

Janet says everyone who works with me is so surprised when she tells them how **stressed and upset** I can get. The people who drive me to contact and supervise contact always comment on what an **'easy'** baby I am. All the write ups about contact say how **'content'** I am in contact, so I still go to see Mummy and Daddy three times a week. **I don't cry in the car anymore, what is the point?** I will **'go to anyone'** in the social work office. Mummy sometimes doesn't come. Sometimes Mummy and Daddy come together.

The worker gives advice to Mummy and Daddy about how to help me feel safe with them and how to explore and play. Mummy listens when she is on her own and tries really hard. When Daddy is there he gets angry at the worker for helping. The worker and Mummy look scared. **I never know what to expect.** I am learning how to keep Daddy's voice lower and how to make Mummy look not so sad. Daddy doesn't like it if I cry or try to play or use my voice to babble. Mummy doesn't like it if I smile too much at other people. Mummy seems a different Mummy when Daddy is in the room. They can fight and bicker and the worker looks worried. **My tummy hurts lots of the time but I can't tell anyone. My wee body is often stressed.**

I am put back in the car seat for the ride home. When I get back to Janet, she opens the car door with a big warm smile. **I look away.**



3 The legal and policy context

In Scotland, a range of policy and legislation helps to protect infants, babies and very young children and ensure their rights are upheld.

3.1 The United Nations Convention on the Rights of the Child (UNCRC)

The Scottish Government is committed to recognising, upholding and promoting children's rights as part of its vision that Scotland is the best place in the world to grow up.

The UNCRC is an international treaty which outlines the rights and protections for all individuals under 18. On 16 July 2024, the UNCRC became law in Scotland through the enactment of the UNCRC (Incorporation) (Scotland) Act 2024. This landmark legislation requires public authorities – including those involved in the Children's Hearings System – to place the rights of a child at the heart of everything they do. The implementation of the UNCRC in Scotland creates new opportunities and challenges in ensuring infants' rights are protected.

Infants, babies and very young children have the same rights as all children. The UNCRC defines a child as "a person below the age of 18" and states that all children – without discrimination in any form – should benefit from special protection measures, supports and services to ensure they can develop their personalities, abilities and talents to the fullest potential and grow up in an environment of happiness, love and understanding.

Four of the UNCRC's articles are referred to as its four General Principles. These four articles can be helpful in considering children's rights in relation to infants and babies and in ensuring that these rights are not overlooked:



Article 2 – Rights without discrimination

This ensures respect for and fulfilment of rights for every child without discrimination of any kind, whatever their ethnicity, gender, religion, language, abilities or other status. This includes discrimination in relation to age, ensuring infants, babies and very young children have equal access to their rights. This is particularly important because infants and babies are relatively powerless and they depend on others for the realisation of their rights.



Article 3 – Best interests of the child

This article states that the best interests of the child should be the primary consideration of all those that make decisions for children, including legal decisions. Although infants and babies often have more limited communication than older children, they are active rights holders and their welfare should always be at the forefront of decision making.



Article 6 – Right to life, survival and development

This principle states that every child has the right to life and that governments must do all they can to ensure that children survive and develop healthily. Children should have access to the things they need to support them to reach their full potential. This is particularly relevant to infants, babies and very young children who experience significant emotional, cognitive and physical development in their few years of life and need their basic health needs met, and appropriate care and stimulation to grow, develop and learn.



Article 12 – The right to be heard and for views to be taken seriously

Article 12 states that the child has the right to express their opinion freely and to have that opinion considered in any matters affecting them. Infants, babies and very young children communicate to those around them through behaviour and social cues, and those closest to them (including parents and professionals) can help us effectively interpret this communication. Infants are developing their language and communication skills, and may not be able to express a view. However, they can communicate very effectively, and we can gather much about their experience from the patterns of their behaviour. This communication must be considered and inform the decisions made for and about them.

In addition to these General Principles, Article 5 of the UNCRC highlights the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow and develop, so that children can fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices. This idea of the evolving capacities of a child – which takes into account a child's age and stage of development – is important when considering how infants and babies communicate, their preferences and the role of parents and carers in decision-making processes.

It is important to remember that in Scotland, civil and political rights for babies, children and adults are also protected through legislation that embeds the European Convention on Human Rights.

3.2 Children (Scotland) Act 1995

The Children (Scotland) Act 1995 enshrines in law the legal responsibilities and rights of parents in Scotland. The law outlines the role parents – and sometimes other people looking after a child – have in caring for their child and being involved in their upbringing. It is important to remember that parents have both responsibilities and rights, and children have only rights.

As part of the Children (Scotland) Act 1995, parents have a legal responsibility:

- to safeguard and promote the child's health, development and welfare
- to give the child direction and guidance

- if the child is not living with them, to maintain personal relations and direct contact on a regular basis
- to act as the child's legal representative

These responsibilities may be exercised only so far as is practicable and in the interests of the child.

Parental rights reflect parental responsibilities, and they include the right:

- to have the child live with the holder, or otherwise to regulate the child's residence
- to control, direct or guide the child's upbringing
- if the child is not living with them, to maintain personal relations and direct contact on a regular basis
- to act as the child's legal representative



The Children (Scotland) Act 1995 highlights the responsibilities and rights of parents, but it is important to remember that infants, babies and very young children are rights holders. The role of the parent should be in supporting and enabling children to fully access and enjoy their rights.

‘The responsibilities and rights of parents is not in consequence of their “ownership” of the child, but rather, as a function of parenting, until the child can exercise those rights on his or her own behalf.’

Gerison Lansdown, international child rights expert,
from the paper ‘Evolving Capacities’, 2005

Parental responsibilities and rights should support children's rights and not conflict with them.

3.3 Getting it right for every child (GIRFEC)

The UNCRC is central to the Scottish Government's policy and practice and aligns with Scotland's Getting it right for every child (GIRFEC) approach.

GIRFEC offers a holistic approach to supporting the rights and wellbeing of all children including babies, infants and very young children, ensuring that they and their families get the right support from the right people at the right time. The key principles and values of GIRFEC include placing the child and their family at the centre and promoting choice and full participation in decisions that affect them.

Similarly to the UNCRC, GIRFEC supports inclusion and non-discrimination, aims to address inequality and helps people to work together to provide timely support to children and

families.

Both GIRFEC and UNCRC help to embed child-centred approaches that keep the rights, wellbeing and needs of infants, babies and very young children at the heart of discussions and decision making.

3.4 Infant Pledge

In 2023, the Scottish Government published the Voice of the Infant Best Practice Guidelines¹ and the Infant Pledge² which provide a specific focus on the voice and participation of children aged 0-3. The Infant Pledge sets out what infants should expect from those around them. It encourages adults to acknowledge infants and babies as rights holders, outlines expectations of what infants and babies need, and supports adults to make good choices for them by considering the different ways infants and babies express their feelings and views.

Reflective Exercise

Read the Infant Pledge and consider the following reflective questions:

- What key parts of the Infant Pledge stand out to you?
- How do you feel the Infant Pledge interacts with your role as a Panel Member?

¹ Scottish Government (2023), Voice of the Infant Best Practice Guidelines

² Scottish Government (2023), Infant Pledge

Infant Pledge

I am one of Scotland's youngest citizens. To give me the best start, so that I can thrive throughout my life, I need to be seen as a person with my own feelings and rights. I depend on adults to interpret my cues and communications so that my rights are upheld, and my voice is heard.

My relationships with the people who care for me are important and directly affect how my brain grows and develops, and how I learn to process and regulate my feelings. Safe and secure relationships and consistent care support my wellbeing now and give me better chances and outcomes in later life too.

Professionals and academics in the field of Infant Mental Health alongside organisations championing the rights and welfare of babies and very young children have come together on my behalf to create the following expectations, which they believe would help improve my life chances.

I expect that I will:

1. Be seen as a person with my own feelings and views.
2. Be seen as able to communicate my feelings and views.
3. Be able to trust my important adults to think carefully about my feelings and views and speak them for me.
4. Be supported to have secure relationships with the adults who care for me.
5. Have safe, interesting places to play and learn, and the help I need to do so.
6. Have my views valued by my family, community, and society.
7. Have a say in decisions about what happens to me.

My important adults will:

8. Have support to be healthy, including before I am born.
9. Have the information they need to make good choices for me.
10. Have the support they need to understand and meet my needs and their own.
11. Have help from people with the right knowledge and skills.

It is everyone's responsibility to:

12. Consider me and my perspective at all levels of decision making.



3.5 The Promise

The Independent Care Review highlighted what Scotland needs to do to ensure that all Scotland's babies, children and young people to ensure they grow up loved, safe and respected so they can realise their full potential. The resulting Promise is built on five foundations: voice, family, care, people and scaffolding.

The Promise is for all children and highlights key elements in relation to infants and babies. In particular, the Promise Report reinforces the importance of listening to the 'quieter voices' involved in the care system. This includes infants, non-verbal children and those with learning disabilities.

The Promise also recognises the role of trusted adults who can help interpret infants' and babies' communication and behaviour. This may include professionals in a child's life such as a Health Visitor, Social Worker, Early Years Practitioner or Clinical Psychologist. The Promise is clear that this must be done with care and consideration, taking into account the overall context of an infants' care and the strengths and needs of their parents or carers.

3.6 Other policy and legislation

A range of other policy and legislation helps to protect infants, babies and very young children. This includes protections through the Children's Hearings (Scotland) Act 2011 and the [National Guidance for Child Protection in Scotland](#), as well as supports delivered through universal and targeted approaches including the Universal Health Visiting Pathway and Best Start grants for parents.

4 Infants in the Children's Hearings System

A baby is born into the world with a brain primed to learn from experience, particularly in their relationship with primary caregivers. These experiences shape the baby's brain and the course of their lives. It is imperative that infants have the best possible start in life, and that young children, who have already experienced trauma, are supported to heal and recover as quickly as possible. As such, the experience of the Children's Hearings System should be as a positive and protective factor in their lives. Your listening, understanding and decision-making as a Panel Member can contribute to this.

We are all affected by our earliest experiences, but it is rare to have clear memories of this time. Although it can be difficult to 'put yourself' in an infant's shoes, it is important to consider the individual experience of an infant and their needs as they can be less visible in all decision-making settings. The adults that know and understand them best play a crucial role in giving them a voice and ensuring their rights are respected.

4.1 What do we know about infants in the hearings system?

The most recent statistical analysis from the Scottish Children's Reporter Administration (SCRA) covering 2024-25³ highlights that:

- 32% of children referred to the hearings system due to lack of parental care were aged 0-3
- 15% of referrals for the most common ground, lack of parental care, were for children in the first year of their life. More children were referred in the first year of their life for this ground than at any other age
- 24% of children with Child Protection Orders were aged under 20 days old
- 45% of children with Child Protection Orders were under the age of two

Infants, babies and very young children are the largest group of children referred to SCRA due to lack of parental care, and the greatest number of children subject to a Child Protection Order. In its statistical analysis, SCRA states: 'Proportionately, more Child Protection Orders are granted for very young children (especially new-born babies) than any other age, reflecting their high risk and vulnerability and requirement for immediate protection.'⁴

Given the significant proportion of infants and babies requiring the care and protection of the Children's Hearings System, it is essential that Panel Members understand their needs and feel confident in the role they play in preparing for and sitting on a children's hearing for an infant, baby or very young child.

4.2 Infants are our most vulnerable children

Babies are born before they are ready to take care of themselves and before their brains are fully developed, making them dependent on their caregivers for their safety and development.

An infant's development is shaped by their environment and their relationships. Infants and babies may experience psychological trauma when the environment they are living in is harmful. It is often assumed that these experiences do not have a lasting impact on their development and wellbeing, but we know this is not the case and what children experience in infancy can have a lifelong impact.

Infants are particularly vulnerable to physical abuse and neglect because of their dependence on adults to meet their needs. Infants and very young children under three represent nearly half (45%) of all children subject to Initial or Significant Case Reviews.⁵ In addition, figures from



³ SCRA's Official Statistics 2024/2025

⁴ Scottish Children's Reporter Administration (2011), Care and Permanence Planning for Looked After Children in Scotland

⁵ Care Inspectorate (2021), Triennial review of initial case reviews and significant case reviews (2018-2021): Impact on practice

Scottish Government show that the homicide rate for infants under one is 10 times that of older children⁶.

In Scotland, the Children's Hearings System is a unique system to ensure our youngest children are protected and that their care and welfare needs are met.

4.3 Panel Member experiences within the hearings system

The Competence Framework for Panel Members⁷ outlines specific behaviours and skills required for Panel Members including understanding child development, attachment, child protection and the impact of trauma.

CHS provides a range of mandatory and optional learning opportunities to ensure Panel Members feel confident in delivering their role. This learning is crucial to ensuring that infants' and babies' best interests are at the centre of decision making.

Within a hearing, Panel Members are expected to ensure the following:

- Children are at the centre of everything that we do
- Every children's hearing is managed fairly and effectively
- Every children's hearing makes decisions based on sound reasons in the best interests of the child

These expectations are no different when sitting on a hearing for an infant, baby or very young child. However, owing to their age and stage of development, the way this is delivered may be different.

Infants, babies and very young children are often excused from a children's hearing due to their age and inability to understand the proceedings. This can make it harder to put yourself in an infant's shoes, but it is essential for Panel Members to consider each infant's individual experiences as well as their unique needs and preferences. We know that because of their age, the needs and preferences of infants and babies can be less visible.

Often a child's hearing can be complex, and Panel Members may find themselves managing challenging dynamics within the hearing room. This can sometimes detract from a focus on the needs of the child during discussion and decision-making, especially when the child is excused from the hearing or cannot contribute verbally. It is essential that infants and babies have what they need to safely grow and develop, and that this is at the forefront of your decision-making within each hearing. Below, we will look at some practical considerations to ensure the experiences, needs and preferences of infants and babies are paramount.

⁶ National Statistics (2021), Homicide in Scotland 2020-21

⁷ Children's Hearings Scotland, Competence Framework for Panel Members

5 Infant development and why it matters

5.1 Babies at risk before birth

In Scotland, we know a lot about babies before they are born as midwifery services provide all mothers-to-be with a comprehensive pre-birth assessment which can help us identify the children most at risk during pregnancy. Babies' brains develop rapidly in the womb and foetal brain development can be influenced by maternal wellbeing and a mother's physical and mental health. A range of factors can negatively impact on the physical development an unborn child including poor nutrition, domestic abuse, a mother's drug and alcohol use, mental health and stress in pregnancy. The Born into Care⁸ research identified several challenges facing families and infants in Scotland, including the fact that 26% of infants who became looked after from birth, were suffering from withdrawal symptoms due to parental substance use.

Neonatal Abstinence Syndrome occurs in newborns who were exposed to opioids or other substances during their mother's pregnancy. Babies may communicate how distressing and uncomfortable this experience is by screaming with a high pitch and may struggle to be soothed and to feed. For some newborns, this can last for days or, in some cases, months before their bodies are clear of the substances.

Similarly, some infants are affected by Foetal Alcohol Spectrum Disorder (FASD), which is a range of permanent physical, behavioural, and cognitive disabilities resulting from prenatal alcohol exposure. The severity of FASD varies, but it can cause lifelong problems for the child.

Pregnancy can be a time when parents are more receptive and motivated to make positive changes, and the pre-birth and postnatal periods can provide an important window of opportunity for parents to engage with services and be supported to address the challenges they face.



5.2 Early brain development and attachment

The science of early brain development clearly demonstrates why it is important to get things right for babies as early as possible, starting in pregnancy and over the first years of life.

⁸ Mason et al. (2022) Born into Care: Developing best practice guidelines for when the state intervenes at birth

The first 1,001 days, from conception to age two, is a period of uniquely rapid growth when a child's development is strongly influenced by their relationships and experiences. Early development shapes the very architecture of the brain, which in turn influences a child's ability to take advantage of other developmental opportunities and lays the foundations for lifelong health and wellbeing.

Within a caregiving relationship, a child acquires the foundational skills and knowledge that will impact their entire lives. Research from the UK Trauma Council has shown that it is the quality of a child's experiences in the first few years of life – positive or negative – that helps to shape how their brain develops and has a lasting impact on their health and ability to learn and succeed in life:

'The scientific evidence on the significant developmental impacts of early experiences, caregiving relationships, and environmental threats is incontrovertible. Virtually every aspect of early human development, from the brain's evolving circuitry to the child's capacity for empathy, is affected by the environments and experiences that are encountered in a cumulative fashion, beginning early in the prenatal period and extending throughout the early childhood years. The science of early development is also clear about the specific importance of parenting and of regular caregiving relationships more generally. The question today is not whether early experience matters, but rather how early experiences shape individual development and contribute to children's continued movement along a positive path.'

Trauma research by Shonkoff and Phillips, 2000⁹

Infants, babies and very young children need adult caregivers to help them regulate their emotions and this begins early in infancy when an adult helps a baby who is overwhelmed by their feelings – perhaps from being hungry, uncomfortable, or unhappy for any reason – to return to a state of calm. Through use of voice, sensitive handling and responding to the baby's signals, the adult helps the baby calm and return to a feeling of safety.

Attachment is the term used to describe the set of expectations that a child develops about a caregiver based on their experience of that caregiver. This 'blueprint' for the infant's important early relationship(s) has an influence on the quality of subsequent relationships the child makes later in life. Infants make this attachment as their survival depends on an adult meeting their needs and keeping them safe from harm. It is important that parents are attuned and responsive to their baby's needs and can provide appropriate care. This includes recognising if their baby is hungry, feeling unwell or in need of closeness and affection.

Children with positive attachments reach out to their caregiver at times of distress to seek reassurance and comfort. This has a positive impact on the child's cognitive, physical, social and emotional development. Only qualified professionals should assess a child's attachment style, but as a Panel Member it is important to understand what attachment is and how it can impact infants, babies and very young children.

9 National Research Council (2000), *From Neurons to Neighborhoods: The Science of Early Childhood Development*

A child's attachment is formed through their repeated experiences with their parent or caregiver and is something that develops over time for a child. Parents and carers can start to form an emotional bond with their child before they are born. Infants also use this attachment relationship as a secure base from which to learn, play and explore the world. Sometimes a parent may have difficulty forming this bond if, for example, they are experiencing mental health issues.

From birth, infants need one consistent, safe and nurturing caregiving relationship to thrive. This is normally a parent but could also be a kinship or foster carer. Whomever the main caregiver is, infants require attuned care and someone who can anticipate and provide what they need from meeting their basic needs for food and warmth to meeting their emotional needs for love and comfort.

5.3 The impact of trauma

'Trauma' is the Greek word for wound, and it can be useful to think about trauma as an invisible wound that someone carries following a physically or emotionally harmful experience. Trauma can adversely affect a person's social, emotional or physical wellbeing, and can be triggered by a single event or a series of events. Almost all of us experience trauma at some point in our lives and how it affects us will vary depending on our circumstances, and the resources and support we have around us. There are several definitions of trauma, but the definition from the Substance Abuse and Mental Health Services definition has been widely adopted in Scotland:

'Trauma is defined as an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life-threatening, and that has lasting adverse effects on their functioning and well-being.'

Substance Abuse and Mental Health Services Administration, 2014

Infants and very young babies experience psychological trauma when their environments are harmful or threatening to them or to their parent or caregiver. Traumatic experiences might include physical and emotional abuse, neglect, exposure to domestic abuse or high levels of stress or conflict at home. Infants and very young children show the impact of trauma in different ways to older children and adults. There may be a change in their sleeping, eating, toileting, patterns of play, and how they interact in their important relationships.

There are many stresses that can impact on a parent's care of a young child, and these can include poor mental health, domestic abuse, substance use and the pressures of poverty and poor housing. As infants are dependent on their caregivers to regulate their emotional state, the most complex trauma facing an infant is when their main caregiver is also the source of their fear.

We have four human responses to feeling threatened:

- to attack the threat

- to escape the threat
- to freeze in the presence of the threat
- to placate the threat

These are known as the fight, flight, freeze and fawn responses. For infants, the choice is limited given their physical vulnerability, and a baby who is shouted at, will quickly learn to be quiet, as to 'freeze' is often the safest option. Babies who have experienced trauma might present in ways that seem unusual, for example, an infant might go to sleep, gaze absently, or be highly engaging as an immediate response to stress. In this way, infants may 'miscue' or hide their needs in the moment. They may also show delayed responses, such as heightened distress or exhaustion. This is why it is important to build up a picture of patterns of behaviours across context and in different relationships.

When considering the needs of infants, it is important that you remember that all behaviour is a form of communication, and that understanding what is being communicated requires a depth of knowledge about the infant, their behavioural patterns and recent experiences.

As a Panel Member, you should feel confident asking all those who know the child best and are attuned to their behaviour to help you understand the experience of the child and how this presents in their behaviour. You may wish to ask yourself and others, what would this infant tell us if they could talk?

5.4 Impact of neglect

Neglect is a form of child abuse and is defined as an ongoing failure to meet a child's basic physical and emotional needs. This includes a child's physical need for food, clean clothing, education and medical care, but also their emotional needs which include having their feelings validated and providing appropriate supervision and care.

Neglect can have a serious and long-lasting impact on a child's physical, emotional and cognitive development. Infants experiencing neglect often present with developmental delay, such as poor social skills and communication, a lack of wariness with unknown adults, or not seeming affected when hurt or stressed. In later childhood this can lead to increased risk taking, social isolation or struggles engaging with education¹⁰.

'Neglect can be defined as a persistent failure to meet a child's basic physical and psychological needs. This often results in impairing the child's health or development. Single instances of neglectful behaviour can also cause significant harm. Neglect is one of the most common reasons for a child or young person to be placed on the child protection register, or to become subject to a Child Protection Plan.'

Scottish Government, 2025¹¹

Research by Jan Horwath offers a helpful reminder of the specific needs which are often

¹⁰ NSPCC (2024), Child protection register statistics: Scotland 2019-2023

¹¹ Scottish Government, Child protection information

subsumed under the banner of the failure to meet a child's 'basic needs'. The neglect of a child can include:

- physical neglect
- emotional neglect
- medical neglect
- nutritional neglect
- educational neglect
- lack of supervision and guidance



5.5 Additional support needs and developmental concerns

Other factors may impact your decision-making in relation to babies and infants. 'Global developmental delay' (GDD) can be diagnosed when a child takes longer to reach development milestones than other children. GDD can impact babies and infants in four key areas: gross motor skills, fine motor skills, communication and social skills.

Careful consideration must also be given to any physical disabilities or learning disabilities impacting infants and babies. Reports and input from professionals including Health Visitors and Speech and Language Therapists will help you to understand the child's unique circumstances and needs. Professionals will also help you understand the developmental impact of any additional support needs a baby or infant may have.

5.6 Protective factors

As humans we are innately social creatures and infants are born ready to interact with their main care givers. Even newborn babies are ready to communicate, seek out faces and share their emotional states. Children's brains develop through social interaction and therefore the availability of positive warm and loving relationships is essential.

'Infant mental health' is a term used to describe the social and emotional wellbeing and development of children in the earliest years of life. An infant mental health approach recognises that the early years are the most important period in a child's life for shaping their mental wellbeing, and emphasises the importance of nurturing relationships, sensitive care giving, and supportive interventions to promote healthy social and emotional development. Infant mental health is nurtured when young children experience positive, consistent, safe and attuned relationships with their primary caregivers.

Infant and Early Childhood Mental Health is defined as developing the capacity of the infant and young child to form close and secure relationships; to experience, manage, and express a full range of emotions; and explore the environment and learn – all in the context of family, community, and culture.

Zero to Three, 2023¹²

12 Zero to Three (2022), Infant and Early Childhood Mental Health (IECMH) - Key Terms and Definitions

Parenting young children can be challenging, and most families will require support at some point in their parenting journey from extended family, friends or community-based supports. These informal supports can be a real strength for families, and it is important that Panel Members always consider the key support networks available to parents and carers during a child's hearing.

Before a referral to the Reporter, parents and families should have access to support in their community. Examples of the support provided might include pre-birth support services, family support interventions and community groups. The Scottish Government's GIRFEC policy approach requires all support services to work together to enhance the wellbeing of children by building a local, flexible scaffolding of support for families. This closely aligns with the principles of intensive family support outlined in the Promise¹³. The support in place in each community in Scotland will vary, but you should be aware of services that parents can access in your area.

For most of the young children and families that attend hearings, additional support is required. Social work and other support services should be available to help parents understand their baby's needs and their role in supporting their child. As part of the GIRFEC approach, a range of assessment resources are available to practitioners to help them develop a holistic view of the child's life including their needs, their environment, their vulnerability and, importantly, their resilience factors.

The right to recovery is a child's right as set out in Article 39 of the UNCRC. Article 39 states that babies, children and young people have the right to recover from difficult things that happen to them, and they should receive help that allows them to do so. This includes infants and babies who are survivors of abuse and neglect. It is important to remember that, with the correct support, infants, babies and very young children can develop secure attachments and recover from their trauma. The Children's Hearings System and the decisions made by Panel Members at hearings can play a huge role in this recovery, offering protection and support for infants and families when they need it most.

As a Panel Member, you can adopt an infant mental health approach by trying to understand the social and emotional wellbeing of the infant and the quality of their relationships with parents or caregivers, and by considering what supports might reduce risk factors or support the wellbeing of the infant and their family.

13 The Promise (2020), Family Support

6 Key considerations in hearings for infants, babies and very young children

6.1 Understanding the infant's voice

Although infants, babies and very young children are developing their language and communication skills, they are very expressive, and we can gather much from the patterns of their behaviour to help us assess their feelings and what they need to feel safe and thrive.

Through everyday interactions, babies clearly communicate their needs, preferences, and experiences by their behaviours, engagement patterns and responses to different environments and situations – yet these communications are often overlooked or misunderstood. These expressions of communication need to be recognised, taken seriously and acted upon. This sentiment is reinforced by the Promise. The Promise Report states: 'Scotland must make a particular effort to understand and act upon quieter voices, including infants and non-verbal children and those with learning disabilities. No group should ever be considered "hard to reach".'¹⁴

The incorporation of the UNCRC into Scottish legislation brings closer scrutiny about how we are listening to the 'voices' of infants, babies and very young children and fulfilling their rights under Article 12. When we talk about infants' and babies' 'voices' we are talking about the way they communicate their needs and preferences.

Reflective Exercise

Think about a baby or very young child you know. This could be a family member or a friend's or neighbour's child. Consider a situation where this child is trying to communicate their needs. It could be when they are hungry, when they are having fun, when they need to be changed or when they are tired.

Now answer these reflective questions:

- What situation are you thinking about?
- In what ways did the child communicate their needs and how they were feeling?
- What response did the child receive?

Once you have answered these questions, continue to read below.

6.2 Keeping the infant, baby or young child at the centre of the hearing

Once the formal, procedural introduction to the hearing has concluded, it is important to start the hearing by focusing on the infant, baby or very young child.

If the child is in the room, you may be able to say hello and talk to the child a little about what they like before chatting to parents, carers and professionals. Many hearing rooms have books and toys that are appropriate for infants and very young children. However, be aware that the environment will be unfamiliar to a young child and they will be listening to and affected by the emotions of others in the space. Depending on the age and stage of the child, it may be developmentally appropriate for them to be very wary of strangers such as Panel Members.

If the child is not present at the hearing, you need to learn about them and their experience from the people who know them best. Asking a parent or carer to share some information about the child can be a good way to ensure the hearing starts off on a positive note. You could say, 'This is Nathan's hearing, so I'd like to hear a little bit about him and how he's getting on. Where is Nathan this morning and what's he up to?' You could also ask, 'What is Nathan interested in at the moment? What does he enjoy doing?'



Remember to be sensitive to the context of the family situation. In circumstances where an infant or baby is not living with or having regular contact with their birth parents, it may be more appropriate to ask the social work professionals or foster carers for this information.

This approach helps to ensure that everyone attending knows that the child is the most important person in the hearing and they will be kept at the centre of the decision-making process.

At times, children's hearings can be challenging, especially if there is a disagreement between attendees or if adults in the room become overwhelmed and emotional. In these circumstances, it can be difficult to hear the quieter voices of infants and babies. As a Panel Member, there will be times when you need to be sensitive to the needs of the adults in the hearing, while keeping all attendees focused on the infant's or baby's best interests. By starting the hearing with a discussion about the infant, it will be easier to refocus the conversation back to the child's needs if the discussion strays from this.

6.3 Attendance of a child and excusals

We regularly hear from Panel Members that infants, babies and very young children do not frequently attend their children's hearings. This is often because of their limited ability to engage in the discussions and understand what is happening at the hearing.

A child can be excused from attending the hearing, or part of the hearing, if:

(a) the hearing relates to a schedule one or sexual offence ground and the attendance of the child at the hearing, or part of the hearing, is not necessary for a fair hearing

OR

(b) the attendance of the child at the hearing, or part of the hearing, would place the child's physical, mental, or moral welfare at risk

OR

(c) taking account of the age and maturity of the child, the child would not be capable of understanding what happens at the hearing, or part of the hearing

Owing to their age and stage of development, infant, babies and very young children are likely to fit into category (c), although they do have a right to attend their hearing. CHS has no expectation for young children to attend as they meet the test for excusal. In some cases, a pre-hearing panel may have excused the child from attending. If this is not the case and the child is not present, Panel Members will need to consider whether to excuse the child at the start of the hearing. This should be recorded as a formal decision in the record of proceedings.

Panel Members are sometimes frustrated by the lack of attendance of children at hearings. To ensure you make a well-informed and developmentally appropriate decision about the purpose of a child's attendance or non-attendance at a hearing, it might be helpful to ask yourself:

- What is the benefit of this infant attending their hearing and why?
- What is the benefit of this infant being excused from their hearing and why?
- If you do excuse the child, how can you ensure their needs and 'voice' are well represented at the hearing and they remain central to proceedings?

All decisions made at a children's hearing should be made in the best interests of the child. The decision of whether to excuse an infant, baby or very young child from the hearing should be no different.

6.4 Infant voice in reports and discussions

Social work, health and early years professionals should ensure that all reports written for a children's hearing include information that clearly represents the child's voice, experience, emotional and physical safety, their developmental needs and the key relationships in their lives. This information is essential in helping Panel Members understand the recommendations that are being made and supporting you to make decisions that are in the child's best interests. If you don't feel the information is clear in the reports provided, you should respectfully ask the professionals in the room to explain how they came to their conclusions.

A range of professionals involved with the child may attend hearings alongside their Social Worker. This may include the child's Health Visitor, an Early Years Practitioner, a Family

Support Worker or an infant mental health worker. The professionals in the room will have knowledge of child development coupled with an important understanding of this unique child, their behaviours and how they express their needs.

Panel Members should feel confident asking professionals how specific situations directly impact an infant or baby, either in a positive or negative way. For example, good family time with a birth parent may have a positive impact on language development or a child's confidence. Conversely, a more challenging experience of family time may result in an infant having difficulty settling and negatively impact their routine. Be inquisitive and ask professionals about the child's experience of different situations, how they respond, and the impact on them.

Alongside professionals, it's crucial to remember the important perspectives that parents, kinship carers and foster carers can bring to discussions. Parents and carers often spend a lot of time with infants and babies and know them well, so make sure you also ask them questions during your discussions, recognising the unique knowledge and insights that they can bring to the hearing.

Remember, your role as a Panel Member is not to interpret a child's communication. However, you do need to understand that infants and babies communicate in a wide range of different ways, and that the professionals, parents and caregivers can help you understand the child's communication in relation to their circumstances.



6.5 Safeguarders

At all children's hearings you must consider the appointment of a Safeguarder. Safeguarders are appointed when there is a requirement to safeguard the interests of the child in the proceedings. The Safeguarder will provide the hearing with an independent assessment of what is in the child's best interest. In certain cases, a Safeguarder can help to effectively gather the views of the infant from the trusted adults around them. You may wish to consider this when it is not clear what the best course of action might be for an infant or baby and where the additional assessment provided by a Safeguarder might assist your decision making.

6.6 Advocacy Workers

Advocacy Workers are excellent at providing older children's views or encouraging older children to be confident in sharing their own views. However, advocacy must be an informed choice, and because advocacy providers do not believe that babies, infants and very young children are able to understand the role of an advocacy worker, this service is not available for children under five.

6.7 Independent reports

In some situations, Panel Members may need information from an independent professional with more specific expertise, such as a medical or mental health professional or a social worker. These are called Independent Reports.

An Independent Report should only be requested by a panel if they have unanswered questions in relation to a child's needs or the support required that can only be addressed by an expert in a particular field, and that without this information the panel would be unable to reach a substantive decision.

An Independent Report usually takes a minimum of three months from the date of the request and extensions are available in complex cases or other circumstances, so the process may take longer. Panel Members must always weigh the benefits of the request for an independent report with the delay that will be caused. This is especially important for infants, babies and very young children, where there needs to be careful consideration of decision-making timeframes and the potential negative impact on a child's development of delaying the decision-making process.

6.8 Non-accidental injuries

Some injuries are a normal part of childhood, for example, children getting scrapes or bruises when playing with friends. There can also be accidents which cause more serious injuries: a child experiencing a fracture during a sports activity or a cut received while being supervised learning to use a knife. These are not normally a cause for concern and can be viewed as part of everyday family life and a child's age and stage of development.

When a child is harmed and there is no valid explanation or obvious cause, that becomes a child protection concern, and protective measures are likely to be taken. This is especially true for a baby who is not independently mobile. When babies who cannot roll over have bruising, it must have been caused by someone else. Bruising, marks and injuries are the most common presenting feature of physical abuse in children who are not independently mobile. The younger the child the greater the risk that the bruising, mark, or injury is non-accidental.

When babies and children are injured by non-accidental injuries, but it is not known who caused the injury, this can be difficult for children's hearings. If the child is in the care of both parents, and neither can explain the injuries, both parents may be suspected of causing the injury, or of allowing the injury to occur. However, it is the Panel's role to protect the child, especially while investigations are ongoing.

Where it is alleged a child has been the victim of a schedule 1 offence in the grounds of referral, these are established in court on the balance of probabilities, whereas if someone is accused of a crime for the same injury, this has to be proven by a higher test, beyond

reasonable doubt. This means that often no-one is prosecuted in criminal court for non-accidental injuries as it may not be possible to prove beyond reasonable doubt that it was one parent, or person, over another.

For children's hearings, the grounds (which are established on the balance of probabilities) are the important factor, not criminal convictions. Decisions should not be delayed to 'wait and see' if charges will be brought or if someone will be found guilty. Grounds being established are to be taken as proven, regardless of whether a person or representative denies this in the hearing.

For non-accidental injuries, the fact remains that the child was injured while in someone's care, there is no explanation for this, and that no-one has taken responsibility. Whether a criminal case is brought is irrelevant to the decision before the Panel: based on the established grounds, does this child require compulsory measures of supervision?

6.9 Decision making and timescales

Infancy is a critical period in a child's life, when they lay the developmental foundations that will impact their entire life course. As such, it is important to address any unnecessary delay in our support, planning and decision making to ensure young children have the best start in life.

Within the context of the Children's Hearings System, it is crucial that we minimise any drift and delay in our decision making so that infants and babies get the right support in a timely manner. It is every child's right to have a safe, secure and stable home in which to grow up. The decisions made for children at hearings must consider both their immediate and long-term needs. However, for infants and babies their immediate needs are particularly important as a failure to meet these needs can have a long-term impact on their development.

The pressure of making good, evidence-based and timeous decisions can be challenging when faced with the complex lives of infants and their families. Panel Members need to consider a range of factors in their decision-making including the safety of the child, health and developmental information, parental engagement with support services and a family's support network.

This information should be included in the reports in your Hearing Information Pack and shared during the hearing room discussions. Professionals should be able to help you to understand the benefits and risks associated with the different decisions that are available to you at a hearing.



In your role as a Panel Member, you can help to minimise drift and delay for an infant or

baby in several ways. This includes encouraging and respectfully challenging professionals to provide clear timescales for assessing risk or progressing support for the child and/or family (for example, the local authority undertaking a Parenting Assessment or supporting parents to attend targeted parenting programmes). You can also decide to include an early review of a Compulsory Supervision Order, which allows Panel Members to review the situation and monitor progress.

6.10 Permanence

‘Delayed decisions mean that children experience the cumulative jeopardy of lengthy exposure to abuse and neglect; disruption of attachments with temporary carers; unstable placements and prolonged uncertainty about their future. There is a relatively short window of opportunity in which decisive action should be taken to ensure that children at risk of harm are protected and delay closes off those opportunities.’¹⁵

Research by Brown and Ward, 2013

We all recognise the importance of loving and nurturing relationships for children. The Scottish Government believes these relationships are best delivered by giving children legal certainty that these relationships are permanent.

Permanence has been defined by the Scottish Government as ‘a stable living situation for a child which meets his or her needs for consistent, sustainable, positive relationships, normally best achieved within a family setting’.¹⁶

For children involved in the Children’s Hearings System, there are several routes to permanence, and these depend on the needs and circumstances of the child.

Permanence can be achieved through:

- returning or remaining at home where family functioning has improved. This may require ongoing support for a child, parents and the family as a whole
- a permanence order for a child who is living in kinship care, foster care or residential care
- a child living under a kinship care order (or ‘section 11 order’) where they are living with kinship carers
- a child living with an adoptive family

When there are concerns about an infant, baby or child living with their birth family, the first option is normally to undertake a Parenting Capacity Assessment to assess whether a child can remain at home or return home, or to consider the potential alternative family (kinship) care. This period of assessment and decision making can often lead to a long period of uncertainty until a decision is made about the child’s care needs.

¹⁵ Brown, R. and Ward, H. (2013) Decision-making within a child’s timeframe.

¹⁶ Scottish Government (2015), Getting it right for looked after children and young people

For children who cannot remain safely with their birth parents, research¹⁷ has shown that relationships and outcomes are more positive if they enter their permanent placements at an early age. Late separation from neglectful or abusive parents and the disruption of attachments formed with subsequent caregivers can have profound effects on children's development and wellbeing.

Unfortunately, many infants and babies involved in the Children's Hearings System experience significant delays in waiting for a decision to be made. During this time, children are often moved through a series of temporary placements with different carers or they can be reunited with their parents before returning to care.

Guidance on Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007¹⁸ state that where a child has been looked after away from home for six months and significant progress towards a return home has not been achieved, it should be considered whether a plan for permanence away from birth parents is required.

Foster care for young children can be pivotal in providing a stable, nurturing environment when a child's birth parents or extended family are unable to provide safe care. It allows children to form healthy attachments and develop in a safe, loving home while their birth families work to improve their circumstances. However, foster care is a temporary solution, often with the goal of reunification with the birth family. For some young children, when rehabilitation and alternative family care has been ruled out, adoption may be the best plan.

The Permanently Progressing research¹⁹ examined the experience of more than 1,800 looked-after children aged 0-3 in Scotland and found that many of these young children had experienced multiple placement moves. The study clearly showed that the early experience of most of these children included neglect and abuse and there was no evidence to support the view that infants were becoming unnecessarily looked after. The study also found unacceptable delays in long-term decision making for these children.

Whether remaining at home or returning there, moving to live with family members or adoption, timescales to permanence are important. There is a need to reduce drift and delay in decision-making, to reduce the harm to a child's ability to make an attachment and to their long-term wellbeing. This approach also supports parents to understand their child's needs and assess their capacity to change within their child's timeframe. Working with a mindset of the importance of permanence for a child can help ensure decision making is based on a child's developmental needs.

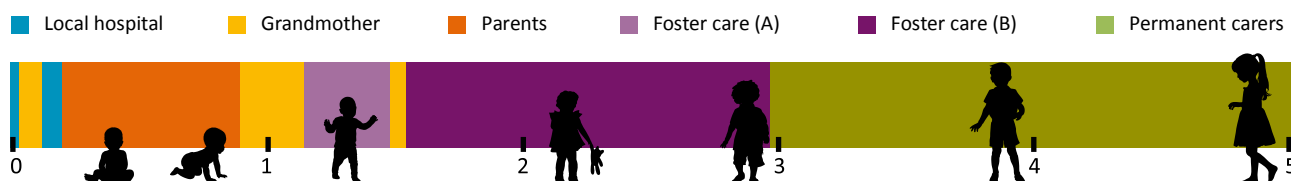
The timeline below provides a visual example of how each short-term decision that is made for an infant, baby or very young child can impact their long-term stability and can either support or delay them achieving legal, physical and emotional permanence. In hearings for infants and babies, Panel Members should consider the impact of their decisions and any

17 Whincup et al. (2019), *Children looked after away from home aged five and under in Scotland: experiences, pathways and outcomes*.

18 Scottish Government (2010), *Guidance on Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007*

19 Whincup et al. (2019), *Children looked after away from home aged five and under in Scotland: experiences, pathways and outcomes*.

possible change for the child in terms of their age and stage of development. It is also important for Panel Members to consider the wider view and think about the cumulative experiences of the child to date and any potential developmental impact.



7 Ensuring contact decisions support a young child's rights and wellbeing

7.1 The purpose of contact

When an infant or baby is subject to a Compulsory Supervision Order, you may decide to include a measure of 'contact' or family time as part of the order. A measure of contact may be required, whether the child is subject to supervision at home or in a care setting away from home. Setting a contact measure (or measures) ensures arrangements for contact can be made with anyone who is important to the child. Contact measures could include measures linked to parents, siblings (or those with sibling-like relationships) or other family members.

There can be many benefits of contact for a child. Contact arrangements protect children's relationships with parents, wider family members, and other people who play or have played a significant part in the child's life. They can also promote a strong sense of identity and self-esteem and help children understand and make sense of their life story. Contact can help children stay connected to their cultural, ethnic and religious heritage, and provide opportunities for them to develop new attachments. There is also increasing awareness that contact with brothers and sisters (and those who may be considered to have sibling-like relationships) from whom they are separated needs special attention to ensure that these important bonds are not fractured unnecessarily.

When a child is cared for away from home, contact can also be an essential part of a parenting assessment and help facilitate a successful return home. Many parents who struggle to keep their children safe, carry unresolved trauma from their own life experiences, and it can be a challenge for them to participate in contact and assessments and to make the necessary and lasting changes to their parenting. These parents often require emotional and practical support through a range of available services. When parents engage positively with the supports available, contact can help parents reflect on their parenting and develop new skills. However, if there are no plans for a child to return to live at home, a hearing's decision to increase contact may give a parent or family member unrealistic expectations about next steps.

In every case where a children's hearing decides to make or review a Compulsory Supervision Order, an Interim Compulsory Supervision Order or an Interim Variation of a Compulsory Supervision Order, the panel must consider whether to impose a direction regulating contact between the child and any specified person or class of persons.

It is important to remember that there is no obligation for panels to impose a contact measure, but every hearing must discuss and consider contact arrangements.

7.2 Types of contact

Contact can take many different forms, including:

- sending letters and photographs
- face-to-face meetings
- phone calls and text messages
- social media contact



When considering contact for infants, babies and very young children, letterbox contact and face-to-face meetings are the key options for consideration. Letterbox contact can support with a child's future understanding of their life story and may have a positive benefit for the child in the long term. Face-to-face contact will have a more immediate impact on the infant, explored in more detail below.

Very young children may also benefit from phone or video contact with family members. This type of contact may seem more beneficial for older children who have more advanced verbal communication skills, but creative practice during the Covid pandemic revealed some new ways to integrate families into the lives of infants when direct contact was not possible.²⁰ Examples include families video calling infants to allow them to hear their voice, reading bedtime stories or singing nursery rhymes.

7.3 Rights to contact

Both children and parents have a right to contact.

Article 9 of the UNCRC states that children have a right to stay in contact with both their parents, unless this could cause them harm. The Children's Hearings System must also comply with a child's rights under the European Convention on Human Rights (ECHR).

This includes:

- the right to fair process where a decision affects a person's civil rights (Article 6)
- the right to respect for a person's private and family life (Article 8)

20 Laurensen, J. (2023) Digital Poverty and Exclusion in Scotland. Digital Lives of Care Experienced Children.

A child's legal right to maintain a relationship with any person that is important to them is also set out in the Children (Scotland) Act 1995. Section 17 of the legislation states that the local authority shall:

'[...] take such steps to promote, on a regular basis, personal relations and direct contact between the child and any person with parental responsibilities.'

Parents' responsibilities and rights in relation to contact with their child are also enshrined in the Children (Scotland) Act 1995. The Act states:

'If their child is not living with them, parents have a responsibility and a right to maintain personal relationships and direct contact with the child on a regular basis as long as this is practicable and in the best interests of the child.'

Although it seems like there could be tension between children's needs and their parents' rights, there is not. The Children's Hearings (Scotland) Act 2011 is very clear: children's best interests should always take precedence in your decision making. Section 25 states:

'[a] children's hearing, pre-hearing panel or court is to regard the need to safeguard and promote the welfare of the child throughout the child's childhood as the paramount consideration.'

7.4 Challenges of contact

As highlighted above, positive face-to-face contact can have significant impact on outcomes for infants as well as their parents and carers. It can help infants and babies to develop positive bonds with parents and support the process of returning a child home, if it is safe to do so.

However, contact can also be very challenging for infants, babies and very young children. For young children who have experienced abuse or neglect within the relationships that should have kept them safe, contact can be emotionally distressing.

Without the presence and support of a main caregiver, infants who have experienced neglect and abuse within their birth families can be re-traumatised in a contact setting.²¹ It can be easy to minimise an infant's experience as unimportant and assume the child is 'too little to understand', but we know this is not the case. Even sensory memories can cause significant distress; for example, if a young child hears a particular sound, or smells something that reminds them of previous experiences, they may instinctively react as if the trauma were happening again.

In some instances, the option of no direct contact may need to be considered for the emotional safety of an infant, especially when parents or caregivers struggle to offer a consistent, positive experience for the infant. Issues may include inconsistent attendance, an

21 Furnival and Grant (2014), *Trauma sensitive practice with children in care* - University of Strathclyde

inability to offer support to the child or behaviour that is unsafe or frightening to the child; all of which can have a significant impact on an infant's mental health and wellbeing.

Negative contact experiences can also undermine the relationship they are receiving in their placement with their primary attachment figure, i.e. their foster or kinship carer.

As mentioned earlier, even the smallest baby can communicate their difficulties in contact situations, and we rely on those that supervise contact to understand this and be able to interpret what the child is expressing. Well-attuned parents, foster carers, family support staff, Health Visitors, Infant Mental Health Practitioners and Social Workers can act as 'interpreters' in these circumstances to assist you as Panel Members in making decisions about contact.



7.5 Key considerations for contact

It is important to remember that there is no obligation to impose a contact direction, but there are considerations which every hearing needs to think about.

First, the three principles outlined in the Children's Hearings (Scotland) Act 2011 should be applied in all hearings when considering contact:

- The welfare of the child throughout childhood is the paramount consideration (section 25).
- The child's views must be sought and taken into account (section 27).
- A hearing needs to be satisfied that making an order will be better for the child than making no order – the 'no order' principle (section 28).

Second, when considering a contact direction for babies, infants and very young children, Panel Members should:

- consider the physical, emotional and cognitive needs of the infant, both now and in the future.
- consider the purpose and aims of contact, including the potential benefits and risks.
- reflect on who is important in the child's life and the young child's experience of contact with different individuals, including how the infant responds to this contact and the impact on their life
- keep in mind that if contact can be agreed between everyone, there may be no need for a contact direction

Contact should be physically and emotionally safe for the infant. The child's parents may have mixed emotions to having contact with their child managed through a legal order, especially if it is supervised contact. However, they should be encouraged and supported to provide a safe, positive, warm and nurturing experience for their young child.

The experience of the infant or young child needs to be at the centre of your decision-making. The plan for contact will depend on several factors such as whether the parents are, or have ever been, the main caregivers (if an infant becomes looked after away from home after birth), the quality of the care the child received before removal, the plan for permanence, the infant healthcare needs and the child's daily routine.

7.6 Considering the nature and frequency of contact

Contact measures may stipulate how often contact should take place, for how long it should take place, where it should take place or whether it should be supervised. The mode of contact, for example face-to-face or letterbox contact, may also be specified. While each of these elements is part of the overall contact measure, each part is a decision and will need to be fully justified.

Parents often focus on the frequency of contact. It cannot be assumed, however, that more frequent contact is always better for building bonds between infants and their parents. Research by Kenrick (2009)²² highlights that it is the quality of the contact experience rather than the frequency of contact that matters most.

Contact arrangements for infants should first consider the infant's age and stage of development and their physical and emotional needs. Parents need to be supported to understand the importance and benefit of their child's needs being central to decision making. For example, a newborn baby will require time to settle into their caregiving relationship (Kenrick, 2009)²³. They need time to establish a predictable routine of feeding and care, which should be prioritised in the drawing up of a contact agreement.

An older infant may find parting from their main caregiver (kinship carer or foster carer) distressing and contact that includes the child's main caregiver being present should always be considered. Kenrick's research also highlighted the detrimental impact of frequently transporting infants as this disrupts their routines and separates them from their main caregiver. Many children in Scotland spend considerable amounts of time travelling to and from contact, which can detract from the contact experience itself.

The wording of contact measures is important. Panel Members may sometimes wish to allow an element of flexibility within contact measures through, for example, implementing minimum measures of contact. This can provide certainty for parents and family members and allow social work professionals flexibility to increase contact arrangements if positive progress is being made. However, Panel Members should also be mindful that this can have the negative consequence of unrealistically raising parents' and carers' expectations. The detail of contact decisions should be discussed during the hearing and Panel Members should be clear about their decision-making rationale both in their verbal and written decisions and reasons.

²² Kenrick (2009), *Concurrent Planning: A Retrospective Study of the Continuities and Discontinuities of Care, and Their Impact on the Development of Infants and Young Children Placed for Adoption by the Coram Concurrent Planning Project*

²³ Ibid

Often contact arrangements for infants, babies and very young children involve supervised sessions within a contact centre or a home setting, monitored by a nominated person. This could be a health professional, a member of social work staff or a carer. A contact plan should be in place to ensure the sessions are safe, supported and monitored and this should be regularly reviewed. Depending on the age and development of the young child, activities might include feeding, bathing and playing, with parents being supported to understand their child's developmental needs.



Contact should always be considered as dynamic and the changing aspects of a young child's life will need to be reviewed regularly to ensure contact arrangements continue to meet their needs. As a Panel Member, you should discuss and carefully weigh up all the information provided when considering a contact decision. Professionals in the room, led by social work, should help you to focus on the key aspects of contact while holding the needs of the child at the centre.

Further information about contact can be found in the 'Contact' module on the CHS Learning Academy.

8 Conclusion

Your role as a Panel Member is to decide whether a young child requires compulsory supervision measures and, if so, the aim of this should be to intervene positively in the child's life to change their circumstances for the better. Your role can be complex and difficult as it comes with a responsibility to treat families with dignity and respect and to ensure their rights are protected, while needing to safeguard and promote the welfare of the young child as your primary consideration.

When preparing for a hearing and considering the needs of babies, infants and very young children, you may find it helpful to consider the following questions:

Preparing for a hearing:

- Is the young child's experience and 'voice' clearly represented in the reports in the Hearing Information Pack? If not, what information is missing and who may be able to provide this?
- What are the physical, emotional and cognitive developmental needs of this infant?

During the pre-hearing discussion and during the hearing:

- How can you (and your fellow Panel Members) keep the young child at the centre of decision making?
- Who do you need to hear from to ensure you understand the unique experience and needs of the child?
- How will you include parents in discussions about their child's needs?
- What can you do to avoid drift and delay for the child?
- What do you need to consider when agreeing a plan for contact?

Keeping these questions and infants' rights and best interests at the forefront of your mind is essential to making good, robust decisions and reasons to improve outcomes for infants, babies and very young children.

We hope this practice guidance has helped you to feel more confident to sit on hearings for infants, babies and very young children. A range of additional resources can be found on the CHS Learning Academy to support you in your role – these include modules on child development and contact. [The Practice and Procedure Manual](#) also includes additional information on permanence and contact.

Questions and feedback

If you have questions on any of the content above, please do not hesitate to contact the Practice and Policy Team at

practiceandpolicy@chs.gov.scot

Children's Hearings Scotland values your feedback.

Please complete this **short survey** to share your views on this practice guidance.



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