



## 'The Feedback Loop'

A Report by the National Convener on the implementation of  
Compulsory Supervision Orders (under section 181 of the  
Children's Hearings (Scotland) Act 2011) for 2023-24

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## Foreword

A year has passed since the last Feedback Loop Report was shared with Panel Members and laid in the Scottish Parliament. In that Report, I spoke of how significant a time it was in the Children's Hearing System, with many changes taking place and on the horizon. This year is no different: much progress has been made to maintain and improve the system for the children, young people and families which our Panel Members support. Of huge importance to Children's Hearings Scotland (CHS) is the passing of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, which will require public authorities to act compatibly with the Convention, and will provide a legal route to hold public authorities to account when children and young people believe their rights have not been upheld.

Towards the end of this reporting period, the Children (Care and Justice) (Scotland) Bill had entered Stage 3 of the parliamentary process. This legislation will have a significant impact on the Children's Hearings System, including allowing a whole new demographic of children (those aged 16 and 17 who have had no prior involvement with the hearings system) to be referred to a hearing, and helping to uphold the rights of all children in Scotland.

Significantly, in December 2023, the Government published their response to the Hearings System Working Group's Hearings for Children: Redesign Report. From the 138 recommendations made in the report, only seven recommendations were rejected in full by the Scottish Government. The remainder were either accepted, accepted with conditions or required further exploration. Since this time, and during this reporting period, much work has gone into giving effect to the recommendations where legislative change is not required. A full public consultation on the Children's Hearings Redesign will be launched which will help cement the legislative direction of travel for reforms within the hearing system.

This is of direct relevance to my powers outlined in the Feedback Loop Report, given that one recommendation of the Hearings for Children: Redesign Report is that we must improve the way that we collect, share and learn from data across the Children's Hearings System, and partners in the sector must work towards positive solutions when faced with issues. Over the coming year we will be working closely with colleagues in the Scottish Children's Reporter Administration (SCRA) and Local Authorities to agree ways that we can better share data in order to improve outcomes for children.

This recommendation aims to resolve a core issue which I have referred to in previous Feedback Loop Reports. Primarily, the issue is that it is a difficult task to achieve the aims of this report when the information to do so is not available to the National Convener or CHS as an organisation. As stated in the Scottish Government's Policy Memorandum to the Children's Hearings (Scotland) Bill, the Feedback Loop Report is conducted: "To help provide a more accurate picture on how local authorities are implementing decisions, and to improve panel member decision-making."

That being said, I am optimistic that this recommendation will be fruitful in its results. I hope that as an organisation, we are given the tools that could help improve the system for the children and families we support. I hope that we are able to ascertain which orders are

helpful and effective in supporting children and young people, and I hope we are able to use this information to help support others. I hope that we can evidence quality and consistency in decision-making, not only for the children and families we support, but also for our 2,200 Panel Members, who put an incredible amount of time, effort and compassion into making decisions in the best interests of children across the country.

Joint work has begun on realising these aims with SCRA and Local Authorities and I am optimistic that by working collaboratively we can agree ways in which we can better share information in order to improve outcomes for children. This optimism is reinforced by the response from Local Authorities where children's hearings have reported breaches of orders over the last year. In five of the six breaches detailed in this report, corrective action was taken which has resulted in tangible improvements to children's lives. Better sharing of data and reporting will enable me to exercise my powers more effectively and improve the lives of more children in the hearing system.

This report presents the current legislative context, gives an overview of the history of the development of the Feedback Loop report, and presents data about decisions made at children's hearings and notifications of breaches by implementation authorities. Finally it takes a forward look at the possible future developments.

I would like to thank SCRA for providing the necessary data required for the preparation of this report.

As the legislation requires, this report will be provided to all Panel Members following the laying of the report before Parliament.

- Elliot Jackson, National Convener and CEO, Children's Hearings Scotland

## Legislative Context

Section 181 of the Children’s Hearings (Scotland) Act 2011 (‘the 2011 Act’) places a duty on the National Convener to prepare a report “about implementation of compulsory supervision orders” in Scotland as a whole and in each local authority area annually, as soon as practicable after the end of the financial year.

A copy of the report must be given to each member of the children’s panel and Scottish Ministers must lay the report before the Scottish Parliament.

## Past Developments of the Feedback Loop Report

The first two Feedback Loop reports published, covering the years 2014-15 and 2015-16, presented a range of data about children’s hearings and the implementation of Compulsory Supervision Orders (CSOs).

The third Feedback Loop report, covering four years (2016-17, 2017-18, 2018-19 and 2019-20) presented a smaller amount of more specific data than the previous reports, focusing exclusively on decisions made in hearings and reported breaches of implementation of CSOs. The last Feedback Report covered the previous three years (2020-21, 2021-22 and 2022-23). Going forward, this report will be conducted using data only from the most recent year.

As noted in previous reports, neither the National Convener nor CHS collect or store information about children, either on an individual or aggregate basis on the implementation of CSOs. This information is held and controlled by Local Authorities, who are responsible for implementing CSOs. Data on decisions made in hearings is held by SCRA. This distance from the data makes collection for the purposes of publication challenging for CHS. In addition, information on the wellbeing of children is not collected in the same way across Scotland.

Over the last few years, work has been progressed to try and achieve a consistent approach that allows for ease of collection, reporting and use, but this has had limited success.

The first two Feedback Loop reports used reported data on a yearly basis from September to August, in line with the data available from Local Authorities. This report, like the most recent Feedback Loop reports, uses financial years as specified in the 2011 Act.

## Implementation of CSOs

If Panel Members are satisfied that compulsory measures of supervision are necessary for a child’s protection, guidance, treatment or control, a children’s hearing may make a CSO.

The CSO, by including measures setting out what specific arrangements should be made, and by specifying an ‘implementation authority’ (the Local Authority in whose area the child predominantly resides or with whose area the child has the closest connection), places a duty on a Local Authority to take action.

Under section 144 of the 2011 Act, the implementation authority has a general duty to give effect to a CSO and also a duty to comply with any specific requirements imposed on it by the measures attached to a CSO (for example, a child is required to reside in a particular place or to undergo a specific assessment, or attend a particular school). The section states:

- (1) The implementation authority must give effect to a compulsory supervision order;  
and
- (2) The implementation authority must in particular comply with any requirements imposed on it in relation to the child by the compulsory supervision order.

‘Implementation’ therefore concerns whether implementation authorities have carried out the actions required of them by measures in CSOs.

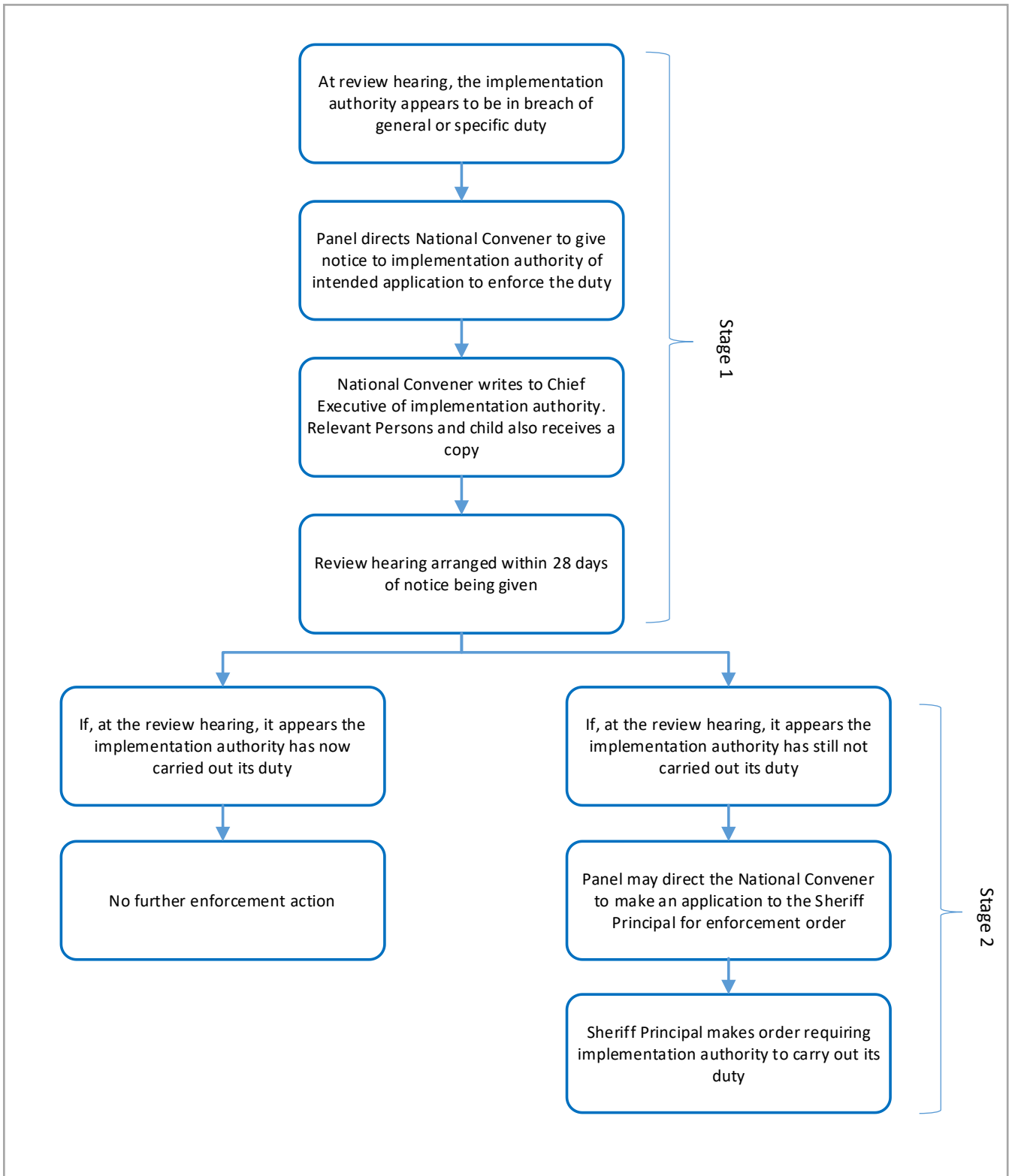
The Feedback Loop is intended to capture not only whether a CSO had been given effect by a Local Authority, but also what had been the impact of that on the lives of the children subject to them.

### Implementation Breaches

It may become clear, for example at a review hearing, that the supervision directed by the previous hearing has not happened. The implementation authority may have taken alternative action or taken no action at all. In these circumstances, a breach of the implementation duty may be considered to have taken place as the implementation authority has failed to carry out its duty, as directed within the CSO. Section 146 of the 2011 Act allows a hearing to direct the National Convener to take action to enforce the authority’s duty.

Any implementation breach is potentially serious. It may indicate that a child is not receiving the support that a children’s hearing has decided is necessary in their best interests. It is important to remedy that breach in order to improve outcomes for children.

A summary of the section 146 process for reporting and enforcement is given overleaf.



## Implementation Data

This report focuses on the implementation of decisions made in hearings by bringing together and providing information on three areas:

- (1) A count of hearings in which particular decision types were made in a given year (1<sup>st</sup> April to 31<sup>st</sup> March) that place an implementation duty – through a CSO - on an implementation authority. The relevant hearings decisions are:

Decision Type	Description / Definition
CSO Continued	The hearing was satisfied that an existing CSO was still required and that no variation to any of the measures was needed.
CSO Continued & Varied	The hearing was satisfied that a CSO is still required but a change to the measures was needed.
CSO Interim Continuation	The hearing was satisfied that an existing CSO should remain in place short-term, until another decision can be made.
CSO Made	The hearing was satisfied that a CSO was necessary for the child's protection, treatment, guidance or control.
CSO Varied	The hearing was satisfied that an existing CSO was still required but the 'relevant period' remained unaltered.

- (2) The number and types of breaches of implementation duty (s.146) that were reported to the National Convener.
- (3) The enforcement actions taken by the National Convener, and their result.

This data is presented over the following pages, separated by Local Authority.

Notes on the data are given at the end of this report.



## Report for 2023/24

### (1) Implementable Decisions made at hearings:

	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied
Aberdeen City	99	129	64	63	12
Aberdeenshire	72	111	26	51	8
Angus	41	108	24	41	11
Argyll & Bute	34	42	28	22	0
Clackmannanshire	57	83	24	35	16
Dumfries & Galloway	97	276	18	102	>5
Dundee	75	152	20	77	25
East Ayrshire	89	130	77	59	>5
East Dunbartonshire	34	44	13	18	0
East Lothian	41	58	24	34	7
East Renfrewshire	48	33	10	20	0
Edinburgh, City of	208	304	49	102	17
Eilean Siar	17	21	6	11	0
Falkirk	125	118	73	56	28
Fife	124	289	74	143	29
Glasgow	435	593	265	178	20
Highland	78	230	24	98	11
Inverclyde	69	125	22	49	>5
Midlothian	27	46	34	34	6
Moray	20	61	19	31	>5
North Ayrshire	130	156	73	86	>5
North Lanarkshire	252	224	92	153	5
Orkney	>5	16	>5	>5	>5
Perth & Kinross	44	75	28	52	9
Renfrewshire	177	237	58	92	>5
Scottish Borders	32	54	7	25	>5
Shetland	>5	15	0	>5	0
South Ayrshire	51	75	17	44	0
South Lanarkshire	159	228	109	121	>5
Stirling	43	45	37	33	17
West Dunbartonshire	127	150	36	67	>5
West Lothian	65	60	118	34	13

## (2) Implementation Breaches

For the decisions made during the year from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024, there were 6 reports of breaches of implementation duties made to the National Convener, relating to 12 children. Two reports of breaches of implementation duties which were made in this year related to the same children and the same breach of duty (breaches 2 and 6 below), with corrective action being taken after the latter reporting.

The breaches reported in the year 2023/24 are listed below. The Local Authorities in question are not named in order to prevent children from being identified.

**Breach 1:** The Local Authority did not provide safe, adequate and clean housing for the child as soon as practicable.

**Breach 2:** The Local Authority did not urgently escalate all possible routes to re-house the children and their family. In the case of one child, the Local Authority did not provide an assessment for autism for the child by making an urgent referral to the relevant services.

**Breach 3:** The Local Authority did not prepare child for and arrange respite for the child, including potential overnight respite.

**Breach 4:** The Local Authority did not provide appropriate housing which was suitable to child's needs.

**Breach 5:** The Local Authority did not arrange and facilitate a full forensic mental health assessment for the child.

**Breach 6:** The Local Authority did not re-house the family within a reasonable timescale.

## (3) Action Taken

**Breach 1:** The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

**Breach 2:** The National Convener wrote to the Local Authority and progress appeared to be made in relation to the duty. No application to the Sheriff Principal for enforcement was necessary at that time.

**Breach 3:** The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

**Breach 4:** The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

**Breach 5:** The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

**Breach 6:** The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

## Comment and Future Developments

The duty of the National Convener to take action in the face of non-implementation of orders is a valuable mechanism in making sure that the rights of children to receive protection and assistance are upheld. In all instances of breaches, intervention by the National Convener was only required at the end of 'Stage 1'. No breaches were advanced to 'Stage 2'.

During this one-year reporting period, six implementation breaches were reported to the National Convener for action. These came from within three Local Authorities. Whilst this is the highest level of breaches reported since the beginning of the Feedback Loop Report, this is still a low total number relative to the overall number of orders requiring implementation by authorities over this period. As stated in previous Feedback Loop reports, whilst it is heartening to see that low numbers of breaches are reported, it raises the question of whether this is a true reflection of all breaches of implementation duties that occur across Scotland or whether they represent, for example, only the most serious or repeated breaches.

As can be seen from the preceding section of this report, effective action was taken by Local Authorities to improve the lives of children and young people in five out of six instances of reports of breaches of implementation duties. Furthermore, corrective action was eventually taken in response to the sixth report of a breach of duty. It therefore remains our view that the statutory reporting of breaches is an essential part of the National Convener's legislative 'toolkit' to protect the rights of children. Whilst its potential has yet to be fully realised, the National Convener is committed to addressing this.

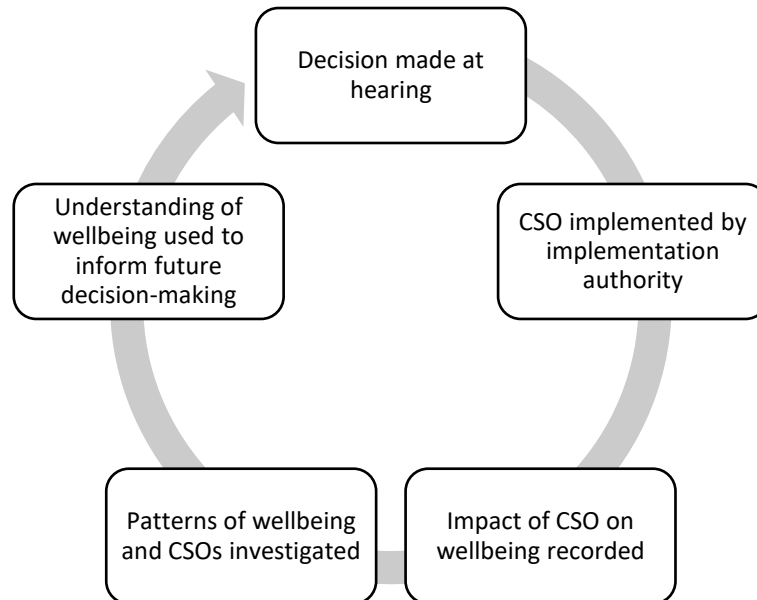
'The Promise' 2020 report from the Independent Care Review highlights the importance of ensuring orders are carried out: "...if implementing authorities fail to comply with orders and conditions of the Hearing, then they must be held to account to ensure children and families get the help and support that the Panel wants them to receive". The importance of this is reiterated by the Hearings System Working Group's Hearings for Children: Redesign Report.

That latter report highlights that a breach of implementation may, on occasion, only be brought to the hearing's attention after the lifespan of the order. In order to address this, CHS welcomes more robust oversight of the orders made by hearings and their implementation.

CHS will continue to monitor the number and types of breaches that are reported in order to identify any patterns and will also investigate whether breaches are being reported via this mechanism. CHS are continuing to raise awareness of the availability of the option to take action in response to a breach of an implementation duty amongst the panel community and welcome full accurate reporting of instances whereby a local authority fails to carry out their required duties.

Understanding and reporting on the processes around implementation breaches only gives us part of the picture. Both the National Convener and CHS remain committed to achieving a more meaningful data set for Scotland's care system – one that allows us to understand how effectively our systems work by capturing not just the elements of process, but the outcomes

and impact on the wellbeing of children. We hope to use wellbeing data to inform decision-making and therefore close the 'Feedback Loop':



This reflects the vision articulated in 'The Promise' report, which notes that "Scotland collects data on the 'care system' and its inputs, processes and outputs rather than what matters to the experiences and outcomes of the people who live in and around it...Scotland must improve the quality and completeness of its data and consider the potential of data linkage to improve accountability for outcomes rather than inputs alone".

There is clear alignment between what the Feedback Loop is trying to achieve, and the ambitions of both The Promise and the Hearings System Working Group. It is clear that further work is required to gather a more meaningful data set – we must ascertain if orders are being carried out, but we must also gain an understanding of whether these orders are leading to better outcomes for children in Scotland.

This work will inevitably take time and investment. However, the National Convener is committed to seeking these improvements so that the Feedback Loop and the data that informs it provide the right information to help improve outcomes for children.

### Notes on the Data

The tables feature a count of hearings that made a particular decision during the year. It includes only those decisions that require implementation by an implementation authority.

The years given refer to financial years (1 April to 31 March).