

NYJAG Minutes

February 24, 2021 1pm-3pm (Microsoft Teams)

1. Welcome/introductions/apologies

In attendance:

Ranald McTaggart, Renfrewshire (chair)
Grace Fletcher, East Ayrshire
Donna McEwan, CYCJ (minutes)
Peter Orr, Glasgow
Lisa McMahan, Angus
Liz Murdoch, Scottish Government
Gordon Bell, SCRA
Stewart Simpson, Scottish Borders
Alison Penman, Dumfries and Galloway
Krysten Buist, COPFS
Fiona Dyer, CYCJ
Colin Convery, Police Scotland
Julia Milne, Barnardos
Janine McGowan, Edinburgh
Ashleigh Duncan, Perth and Kinross
Claire Brookes, Midlothian
Sharon Grant, South Lanarkshire
Morag H Williamson (Shetland)
Lorraine McNally, East Renfrewshire
Elaine Kelly, West Dunbartonshire
Karen Bowie, Dundee
Jane Donaldson (Police?)
Charlie Gracie, Stirling
Wilma Paxtondoherty, Aberdeenshire
Keith Gardner, Community Justice
Lesley Weber, Risk Management Authority
Rikki Sneddon, Stirling
Geoff Reid, SACRO (EEI Rep)
Angelene Moan, East Ayrshire
Sharon Ann Paget, Orkney
Erin Alix Hall, Student
Jennifer Ward, Scottish Government
Alison MacBride, Stirling
Nicola Pickard, West Dunbartonshire
Diane Dobie, South Lanarkshire
Yvonne Lynch, Clackmannanshire
Sandra Steel, Falkirk
Gary Hoey, South Ayrshire
Martin Loughrey, Dumfries & Galloway
Carolyn Stephen, Police ACR (Presenter)
Sharon Glasgow, Scottish Government ACR (Presenter)

2. Previous minutes

Liz Murdoch (SG): slight clarification to point from last meeting if this can be amended to reflect that the Directive has been amended by the courts to allow virtual court hearings to take place, where appropriate, for those in secure care. This is a permanent amendment. No other issues noted and minutes of the last NYJAG were approved.

3. Issues arising from NYJAG Exec

- Covert Human Intelligence Sources (CHIS) - this had been highlighted some 12/14 months ago when Nik Nobbs from Children & Young People Commissioner Scotland office (CYPCS) attended NYJAG to flag this issue. Nick then recontacted NYJAG in January to raise fresh concerns. (Agenda item 6).
- Meeting took place with Ben Farrugia of SWS to strengthen links and connection and will update once agreed how this will be progressed.
- Gordon Bell was to collate data re. under 12s (agenda point under AOCB).
- Gordon Bell to facilitate discussion re. issues from previous meeting flagged concerning links to SCRA in Dundee area which he did.
- Invite to be extended to Sharon Glasgow from SG ACR team to share current position and link with group (Agenda item 8).

4. Update on Secure Care Standards

Launched officially in October 2020 with a stakeholders launch taking place tomorrow (February 26). A [website](#) has been designed to provide detailed information to support the implementation of the standards with young people telling us what the standards need to provide for them, as well as links across other policy and legislation to illustrate how this ties in with wider work and importance of recognising the Standards are before, during and after secure care. With evaluation and monitoring of the implementation of the Standards expectation that will be able to add and share local best practice examples.

Debbie Nolan, CYCJ Lead for Secure Care, has helped facilitate a number of workshops sessions with local areas to aid local awareness raising and provide opportunity to take stock of current position in implementing the standards and develop how can build on this. If anyone wishes then Debbie is happy to facilitate and support so if interested please contact cycj or Debbie directly to discuss deborah.nolan@strath.ac.uk.

Questions posed to the group:

- What would help you as we work towards implementation of the Standards and beyond?
- Views on the evaluation and monitoring of the Standards
- How can you help with the communications and engagement around the Standards and what support would you need?
- How best can I engage with and support you in my role?

Grace Fletcher (East Ayrshire) advised that they found the workshop Debbie supported to facilitate very helpful and this provided them with a range of ideas and steps to take forward their implementation of the Standards. Angelene Moan has established a multi-agency implementation group and Debbie has continued to support this and provide direction and guidance as required. Would encourage people to use the opportunity and support. They prioritised the inclusion and seeking the voice of lived experience

young people following the self-evaluation and this has been extremely helpful in shaping actions and work and have different partners such as independent advocacy as well as traditional partners. They would be keen to hear from others how they are progressing and share ideas and good practice.

Janine McGowan (Edinburgh) pointed out the importance of recognising that the Standards apply to all young people in secure care, not just those in conflict with the law, so she is keen to know how these Standards are being promoted and adopted by wider social work services.

Liz Murdoch (SG) acknowledged the need to achieve consistency in meeting the Standards for all children across all parts of the pathway. Recognised that many aspects are individualised to geographical areas and within specific services. Example given of transport notwithstanding wider national issues but all local authorities use different preferred providers, secure care centres appear to have different preferred providers.

Peter Orr (Glasgow) expressed that this is about embedding the Standards within safeguards as it is about care for children. This should be a focus within all meetings, processes with all services and providers regarding meeting the needs of care for children.

Rikki Sneddon (Stirling) - they will be hosting a multi-agency workshop which Debbie Nolan (CYCJ) will be contributing to in March to follow on a cross authority and multi-agency partner's discussion in December.

If people have any further information to add after having considered the four questions above Debbie would be grateful for your feedback and please forward this to her at the e-mail address noted.

5. Report on meeting with COPFS

No change in COPFS bail position and criteria remains the same as prior to Covid. However, consideration may be that as there is focus on only holding in police custody for court those who cannot be released for court due to safety concerns, it could be that the children who do appear are appearing on more serious matters and greater likelihood the circumstances of the child meet the criteria COPFS consider in relation to bail opposition. These criteria are always on a case by case basis. This had been position expressed at YJIB so is consistent. Acknowledgement with less numbers of children being prosecuted at court it may increase the visibility of those who are and appear as if more are being remanded in some cases.

[Lord Advocates Guidelines](#): Liberation by the Police COVID 19 or Coronavirus outline the considerations for police use of undertakings and liberations during current period of disruption. Across Scotland the use of undertakings has increased reflecting the guidance, though this raises issues regarding information sharing as social work and partners either not getting this information or getting it after the child has appeared and prevents supports being offered and in place. In some cases this is resulting in warrants being issued for a child's arrest which could have been avoided if information had been shared to allow support to have been offered.

Discussion from group noted:

System/process required to ensure information is shared to allow provision of support to children and young people appearing at court on undertakings. Offer of assistance from Colin Convery (Police) to look at this matter. Question posed regarding risk assessment tool used by COPFS to aid undertaking decision.

Issue of impact of delays in court proceedings and court programming which could be alleviated by children being prioritised was discussed. COPFS reluctant to agree with this as concern it would negatively impact other vulnerable groups and individual factors of cases may not allow for this in every situation. However, an agreement in principle was reached with an acknowledgement that this to be consistently applied and also requires collaboration across all partners including police and SCTS.

Pilot of virtual courts taking place which has drastically reduced footfall in court. There have been no cases involving children. Advised to raise any issue or concerns around children in court with local PF in the first instance and contact him for assistance if needed. Grace and Ranald also highlighted from discussion with COPFS questions regarding maintaining positive aspects for virtual hearings and links with trying to reduce no of times individuals particularly children have to appear at court such as eliminating intermediate diets. That children especially should only appear at court hearings where can be released or not and points must be there. Also there have been issues accessing social work support and information sharing. Also noted from Keith Gardner (Community Justice) complex and detailed debates around the Implementation of EM Orders for bail - one strand includes how PFs undertake 'risk assessments' for bail opposition - acknowledgement that COPFS have been excellent in this work and SCTS colleagues have also raised issues about the complexity and volume of custody courts.

Liz Murdoch advised that it was her understanding from discussions with SCTS that the Directive which was amended to allow virtual hearings for those in secure care, will remain beyond the Covid legislation.

Actions:

- **Ranald McTaggart will clarify position with COPFS re. bail and bail opposition following Covid**
- **Steven McGowan COPFS to be invited to next full NYJAG with space for discussion and questions.**
- **Ask of group members to consider and forward what aspects of virtual hearings for court, secure, CHS are positive and should be kept beyond the period of covid legislation implementation?**

6. Covert Human Intelligence Source Legislation

The Children's Commissioner had approached NYJAG in December 2019 regarding the use of CHIS and children being included within this which raised questions as to whether children are being used in Scotland as CHIS. Nick Hobbs then approached NYJAG again in January 2021 to raise concerns that the Scottish Government is considering introducing emergency legislation that would give police further powers to allow children to commit crimes as part of their role acting as CHIS. NYJAG has therefore written to all MSPs, and separately to Humza Yousaf and Maree Todd, to voice their concerns, raise awareness of existing and proposed legislation, and ask the Government to review this in the light of the potential impact on children. Ranald will keep group updated as this progresses.

7. EEI/DfP forum

Geoff Reid SACRO provided update from EEI Forum and the subjects that had been discussed. Discussion around some areas trying to shift to develop prevention as well as EEI to enable a more preventative approach rather than waiting until a child had been charged before considering what action could be required. How can ensure with shift to ACR that under 12s who may have come into EEI are not lost and there is a pathway/ route to ensure their needs are responded by appropriate agency and services. As long as upholding rights EEI could still be used where appropriate whilst being mindful whether should be youth justice response or sit in universal services.

The DfP has not met since last NYJAG; next session is on April 6 and will focus on impact of the recent changes to disclosure. CYCJ can offer support to local authorities and partners in how to develop their delivery of individualised and tailored responses shifting away from a set programmed approach . All with an interest in Diversion are welcome and the link to register for the next diversion forum [is here](#).

8. 1.30pm Update on ACR

Sharon Glasgow (Professional Advisor) and Carolyn Stephen (Police) from SG ACR team joined the meeting to discuss their roles and next phase towards implementation. Carolyn said that full implementation of the Act was planned for December 2021.

Sharon is professional adviser and providing a bridging role between SWS & SG to make the connections across policy developments such as The Promise, JII, protecting children and the pending update to Child

Protection Guidance, with ACR. Focus is on Part 4 of the Act - Police Powers and Duties but ensuring clear interface with SW & other partners. Today wanting to make connections so can use NYJAG as critical friend and link with the group at appropriate points and hear about the challenges from a NYJAG perspective.

Sharon said that her current priorities include ensuring that appropriate processes and practices are in place to respond to concerning behaviour by children under the age of 12. The ministerial guidance on Place of Safety is in progress and currently working on getting this finalised though no timeline for this at present. Also working on operational guidance on Investigative Interviewing, decision making at IRD and what that should look like. Important to align this with CP processes as far as possible whilst recognising that there will be additional duties in the Investigative Interviewing process with under 12s and clarifying what these will be. With regards to who will be trained to undertake the investigative interviewing role, Sharon is liaising with local authorities on this issue. If assuming can use practitioners that are JII trained then what additional training will be required and if not going to use JII trained practitioners then that will require a more detailed consideration. Will also require awareness raising regarding the Act and associated changes to practice as well as the duties and roles under the Act.

Part of Sharon's work is also about looking to increase the age beyond 12 years as this is built into the Act and contribution from NYJAG in considering the implications of this will be paramount to ensure credibility in responses and services for victims and communities.

Discussion

Ranald recognised that there will probably be variation in practice regarding how under 12s are responded to once the Act is fully implemented, given that they could be deemed as being no longer within a 'youth justice' system.

Janine asked if there is a "switch on" date for in December and any timescale for the operational guidance being shared as it would be helpful to have access to it to aid in designing services around it? Also, Gordon Bell advised that he has been involved with the JII training which has been updated though unsure whether the new training is tailored towards the type of investigative interview under ACR or has factored this shift in.

Sharon and Carolyn advised there is no date for the issuing of guidance, as a number of unanswered questions need clarification before they can do this. Sharon emphasised the need for input from critical friends and if group members could support raising awareness by highlighting the timeline across their local authorities and partner agencies that would be helpful. Sharon is approaching CSWOs and seeking a point of contact in each local authority, which might include some members of NYJAG. Sharon is linking in with those involved in development of JII training to look similarities and differences as well as gaps between JII and investigative interviewing under ACR. Both Sharon and Carolyn offered to do inputs regarding ACR if that would be helpful to agencies and local authorities and if people are looking for information or check things out to contact them.

9. WSA Survey

CYJ team members circulated a WSA Survey to their respective points of contact in each local authority in December and January to collate information to get a national picture of WSA across all 32 local authorities. Purpose is to understand better what the barriers in place are/ongoing and new, what is working well and what isn't. We have received 12 responses so far and Donna requested that people please take the time to complete and return as otherwise this gives us a very small partial picture and limits the identification of themes, patterns and evidence that will be used to inform implementation of the forth coming youth justice vision and action plan and supporting development of youth justice.

Some attendees were unsure whether they had received had not received the request to complete the survey and may have been some confusion with ACR survey that had been sent by CYCJ at same time. Janine McGowan queried whether other agencies had been asked for input and Donna McEwan informed this was not done separately and acknowledged may not have been explicit enough, however assumption made information would include partners in each local authority area.

Donna will circulate copy of the survey after the meeting with a date to be returned to her if people can check whether they have had sight and whether perhaps other colleagues have already completed, if not to do so and return to Donna. Liz Murdoch echoed the importance of gathering the information and urged people to complete and return if not yet had the chance to do so.

Action:

- **Donna McEwan (CYCJ) will check for those who requested during meeting if have survey returned from them and if not send copy for completion.**
- **Donna McEwan will circulate copy for WSA Survey round NYJAG group for those not having yet completed or not clear whether their area has completed one yet in order to do so**

10. SG Vision and priorities

Liz Murdoch presented an overview of the new vision and priorities for children in conflict with the law in Scotland which is based on a rights-respecting approach. Engagement across partners and stakeholders including children and young people as well as previous session with NYJAG last year aided the identification of the key priorities going forward. Liz explained it's children and young people as children is under 18 years and 18 years to 25 refers to young people. There has been lots of debate regarding language and appropriate terms to use. Recognition that not all aspects of WSA can be extended to under 26s but where we can then we should be and what is needed to do this.

Discussion points highlighted some aspects of language that could be helpful to review and if in line with CYP(S) A 2016 should the age be 26 years rather than 25 years for increasing WSA as suggested by Stewart Simpson. Janine McGowan advised the vision is easy to understand and asked if message for victims is strong enough and seemed to miss statement that also trying to keep children out of CHS and not just court as do not want to return to everything going to SCRA and get to position that only what should be referred there actually is referred. That it is two systems we are trying to keep children out of. Lorraine McNally suggested the inclusion of lived experience and including the lived experience of victims within the work going forward and making this explicit to inform development would be helpful. Peter Orr highlighted use of language in terms of using educate about rights may be more appropriate to use more inclusive language however was noted that educated about rights was feedback from children and young people as to what is needed but again consideration of language and suggestions were noted as welcomed.

Ask of the group was to consider if there anything glaringly obvious that is missing from the vision and strategy and is the action plan achievable to reach the intended outcomes? What specific actions are required to meet the outcomes?

Liz also mentioned the Youth Justice Standards which have been updated following a consultation process early last year. This now includes specific standards around victims and participation.

Action - Liz will circulate the Vision and Priorities document after the meeting to allow people time to view with feedback and comments welcomed. Liz will also provide the standards for awareness.

11. Date of next meeting: June 2, 2021.

12.AOCB

Gordon Bell's data input was held until next meeting to allow for fuller discussion and inadvertently allow for more data to be gathered.

Action- Gordon will provide data input at next meeting re. under 12s.