

Children's Rights Implementation Group

May 12: Note of meeting

Present:

Fiona Dyer	FD	CYCJ
Juliet Harris	JH	Together Scotland
Ross Gibson	RG	CYCJ
Stephen Bermingham	SB	CHS
Gita Sharkey	GS	SG
Maureen Roberts	MR	CYCJ
Diane Dobbie	DD	SW Scotland
Neill Mitchell	NM	SCRA
Elaine Walker	EW	SCTS
Lawrence Mearns	LMe	SG
Tracy Kirk	TK	Striling Uni
Alison Reid	AR	CLAN Childlaw
Lisa Hay	LH	SG
Gerald Michie	GM	SPS
Danny Henderson	DH	Carevisions
Maria Galli (observer)	MG	CYPCS
Graham Dodds	GD	SG
Janine Mccullough	JM	Education Scotland
Liz Murdoch	LMu	SG
Yolande Love	YL	COPFS

Apologies:

Grace Fletcher NYJAG
Paul Stillie Youth Just Us
Alison Penman SW Scotland

FD and JH welcomed everyone to today's meeting and noted the apologies.

The note of the last meeting of CRIG held in February 2022 were approved by those in attendance.

Actions from previous meeting:

FD addressed the action points from the previous meeting, as summarised below:

Action	Update
View the SG audit of UNCRC compatibility	GS advised that the Programme for Government 2017/18 included an action to undertake an audit on the best way to further embed the principles of the UNCRC
Share content from Education Scotland relating to 'Recognising and realising children's rights'	This content had been provided by JM and had circulated to members within the papers for today's CRIG.
Discussion to be held regarding the draft restorative practice action plan, and its lack of consideration of children's human rights	Draft code of practice for children and young people is currently out for peer review to ensure focus on children's rights

CYCJ is primarily funded by the Scottish Government and hosted by the University of Strathclyde.

Feedback to be sought in relation to virtual hearings	Barnardos are undertaking this work at the moment and GM will report back at the next CRIG RG shared reports produced by Manchester Metropolitan University which refer to virtual hearings in the English context.
Provide update on the efficacy of the RCC D&G pilot	DH provided update on the D&G pilot. Highlighted limitations, and time limited approach. The piece of work took place prior to UNCRC agenda. This was carried over to the next CRIG. RG, DH and AP to provide an update at that time.
Share papers re: Youth Court when available	FD and RG reported that work on the Glasgow Youth Court was at an early stage and no data available to share at this time. DD offered to share the evaluation of the South Lanarkshire Structured Deferred Sentence Court. This will be forwarded to members by RG.
Issue of speed at which decisions are reached when children are accused of a crime is to be raised at the next meeting of the implementation group chairs.	This was carried over to a future meeting of the chairs. FD to provide update at next CRIG.
Scottish Court and Tribunal Service to be invited to next meeting of CRIG elaine walker	EW from SCTS was in attendance at today's CRIG.
List of participation projects with whom the Scottish Government are engaged to be shared	LMu has provided this.
SPS and SCRA will consider possible involvement in SLCN group once MR has forwarded ToR.	This has been completed with Collette Gallacher from SCRA and Jan Green from SPS/NHS joining the SLCN subgroup

UNCRC

JH summarised the current situation with regards to UNCRC implementation. This is at a pause whilst Scottish Government liaise with legal advisors. In the meantime, JH proposed that a review of existing legislation could be undertaken, despite the delay caused by the decision of the Supreme Court. As an example, she pointed to the [work that had been undertaken in Jersey by the Children's Commissioner](#) and cited that as an example of what could be undertake in a Scottish context.

This led to a discussion over the existing gaps in Scotland's response to children in conflict with the law, with MG highlighting a range of issues that were of note, including the continued use of crossborder placements and Deprivation of Liberty Orders.

Members agreed that the definition of childhood, and its arbitrary cut off date of 18 within legislation (although 16 in other areas) was a key factor in this.

Data shows that the prosecution of 12-17 year olds is also a significant issue, despite a policy framework that provides opportunities for alternative responses to be utilised that would avoid the risk of children

being prosecuted. JH expressed a view that a review of Lord Advocate guidelines was required in order to address this.

JH posed the question of what areas of current legislation and practice should members highlight and address through the CCJ Bill.

AR reported that CLAN Childlaw are undertaking a piece of work that will scope out the legal needs of children in conflict with the law, but will also seek to consider other issues including housing, family contact, education and so on. She added that rights under the UNCRC were being impacted upon every day, and the challenge for CRIG – and society more widely – was to build a system which is capable of challenges these injustices.

JH and TK intimated an interest in this area and believed that the work being undertaken by CLAN would highlight trends and issues that may otherwise receive less attention. Other members agreed and decided that a **paper will be brought to next meeting of CRIG which highlights these areas more fully. JH, TK, AR and MG intimated their willingness to work on this paper.**

Children in Court

FD presented a paper which discussed the many Issues relating to children appearing in court and offered suggestions and views as to what a 'youth arena' would look like for children appearing on summary matters. The paper highlighted adaptations that may be required if children were required to appear in court including the physical layout of the building, dress code, language and similar issues. These currently have a considerable impact on the rights of children who are appearing in court.

FD added that the content of the paper aligned to various parts of the ongoing CCJ Bill consultation and suggested that the content of this paper might be one way of addressing the required changes. FD noted that judiciary may have security concerns over this approach however. EW responded, stating that setting up specialist court would be matter for the Sheriff Principal, and SCTS would facilitate this if such a decision was made. She agreed about the possible issues re: security; this is also under consideration through Lady Dorian's ongoing work. FD asked how to be best engage with Sheriff Principals on this matter. **EW will take advice and update CRIG.**

DD noted that the Structured Deferred Sentence evaluation undertaken by Dr Johane Miller of UWS highlighted several benefits of that approach which could be replicated elsewhere. **RG will share this evaluation with members.**

Discussion took place amongst members, agreeing that whilst adaptations such as these were useful in minimising the negative consequences of court contact, the overriding ambition of the youth justice workforce should be to support children through alternative solutions and resources. Discussion then focused on regarding the impact of extended periods of time that children may be held on remand, and also the impact of extended period of Bail. These have the effect of deprived a child of their childhood.

FD highlighted the low use of remittance at sentencing stage, and wondered why that would be the case. Attendees suggested that awareness amongst practitioners might be one reason. **RG will take this issue to the next SWS Justice Standing Committee.**

Children's Care and Justice Bill

RG summarised the ongoing work at CYCJ in relation to supporting organisations to respond to the CCJ Bill consultations, inviting members to attend the two roundtables that have been arranged over the coming weeks. RG suggested that this Bill is the biggest opportunity to influence changes to the youth justice systems that Scotland has had for a considerable number of years. Members discussed various elements of the consultation document, noting the opportunity to stress the importance of a rights respecting approach. **RG will circulate invites to the roundtable events.**

Barnahus / Bairns' Hoose

FD highlighted the plans for creation of Barnahus provision across Scotland, designed to provide children the opportunity to provide evidence, receive care or undergo medical examination when they have been harmed by others. This model will also be available to children under the age of criminal responsibility when they are believed to have caused harm. This provision is not being extended to children above this age, who will continue to be interviewed in line with existing practice.

A discussion took place regarding the inequity of this proposal and its departure from UNCRC and the promise, and the failure on the part of this proposal to reflect the duality of childhood within which a child can both harm, and be harmed.

FD proposed to draft a letter highlighting concerns over this development and ask interested organisations to sign it alongside CYCJ, prior to being forwarded to the Cabinet Secretary. Several members of the group were supportive of this approach. **FD will circulate letter and ask interested organisations and individuals to co-sign the letter.**

Subgroup updates

SLCN

MR provided an update regarding the SLCN subgroup, noting that a revised ToR has been produced and agreed upon by members. The group were in the process of reviewing publications and resources with a view to ensuring that these were as up to date as possible. The subgroup are seeking to develop a webinar regarding SLCN at some point later in 2022. MR added that SCTS, SPS/NHS, SCRA and CHS have all joined the group. In the coming weeks MR will consider how best to involve people with lived experience of this area

EEL subgroup

RG provided update regarding the EEL subgroup within WSA IG, which have been asked to consider the any implications for children's rights within the EEL process. Donna McEwan of CYCJ is progressing this work and will update RG and CRIG in due course.

Participation subgroup

RG reported that the Participation subgroup had met in February and were still at an early stage in terms of their progress. A chair has been forthcoming (Gordon Main, OHOV) and it is hoped to involve children and young people in the chairing process as much as possible. A range of organisations with an interest in this area were represented, with encouragement for young people from these organisations to join and contribute to the group. To support this, RG queried what could be provided in order to compensate children and young people for their time, as this would otherwise provide a barrier. He added that it would be a good sign of intention for CRIG to demonstrate the valuing of their time, as that would be best practice across the participation landscape. **FD agreed to discuss this and find a suitable resolution.**

Actions:

Action	Allocated to
Evidence regarding the efficacy of previous pilot projects which addressed unnecessary criminalisation of children in residential childcare to be collated.	RG
A paper will be brought to next meeting of CRIG which highlights the range of challenges that children in conflict with the law commonly face. This will consider issues beyond those relating to court process and criminal justice mechanisms.	JH, TK, AR, MG

Feedback regarding the experiences of children and young people who had encountered virtual hearings to be gathered.	GM and Barnardos
Letter to be drafted and shared, highlighting concerns that the rights of children believed to have caused harm will not be respected, and that provision should be included within Bairns' Hoose.	FD – interested parties to sign
Request to be made to SWS Justice Standing Committee for them to consider how best to increase the use of remittance from court.	RG
Details regarding the CCJ roundtable events to be shared.	RG
Evaluation of SDS Court in South Lanarkshire to be shared.	RG
Details regarding CCJ roundtable events to be circulated.	RG
Issue over speed at which decisions are reached when children are accused of a crime is to be raised at the next meeting of the implementation group chairs.	FD
CRIG to be advise on best route through which to engage with Sheriff Principals, in relation to adaptations to Court practices.	EW
Discussion to be held regarding the draft restorative practice action plan, and its lack of consideration of children's human rights.	FD

Next CRIG:

September 14 at 2pm.