

## **Sacro's response to *Getting it right – for every child* Review of the Children's Hearing System**

### **Introduction**

As said in Phase 1 of the consultation, Sacro is committed to retaining and strengthening the Children's Hearing System in Scotland.

Sacro welcomes the Minister's comments regarding making sure that the child is at the heart of children's services. The suggestion that we need to concentrate on preventative educative programmes empowering people to make changes themselves is also welcomed.

Sacro is committed to strengthening the system and supports the sentiment that there should be a minimum of bureaucracy thus ensuring that the system better meets the needs of children by taking a wider view of all the issues. In Phase 1 Sacro proposed that 'A stronger restorative justice element embedded in the system would help to achieve this.' The fact that approaches such as family group conferencing and family mediation are detailed in the section 'What needs to happen' is therefore very encouraging.

The overall thrust of the proposed changes to the system is to reduce the number of children who are referred unnecessarily by the Reporter to the Children's Panel. Although Sacro does support this vision, it is a complex issue for which the answers are complex.

Sacro supports most of the proposed changes, however feels that the suggestion that statutory duties be placed on agencies would need careful consideration before implementation. Without careful introduction and clear guidance these duties might invoke a blame culture in the system, which would not be consistent with the restorative values it proposes promoting to our children and families. It could also have a paradoxical effect, in that people who work with children and young people would be less confident about admitting to mistakes, subsequently attempting to hide them. This said, Sacro does not have an outright objection to being duty bound to provide a Service. This could improve Service integrity and deal with the reputation that voluntary agencies can bow out.

The streamlining of processes and better co-ordination of agencies is also supported. Sacro also supports the proposal for more support and training for panel members. The proposal that each child or young person having one lead person from either local authority or a voluntary agency is another proposal supported by Sacro as it could help streamline the proposed integrated assessment, and action plan tools. The continuity provided by at least one panel member may have benefits for some children and families, however, there should be support mechanisms allowing families to object to this. It could perhaps be introduced as an option where appropriate or requested by the family concerned.

## ***Improving children's services***

**Families and children should know what services they should be able to access.**

**1. We propose that agencies should publish information for children and families about the services and support available and how it can be accessed.**

Sacro agrees that this is an important step towards a better communication strategy. A range of easily accessible and comprehensible material published on the Internet and available in local libraries, schools and social work departments would assist in this endeavour. Mail-shots and media advertising may also be helpful, as not everyone will have Internet access. Access to a helpline explaining what is available would also be helpful, e.g. explanations of the system, the legislation and current resources in each area could be developed.

**We intend to continue working with children's services to make sure that the right structures, systems and staff are in place to deliver the high quality services that will realise our vision for children.**

**2. We propose that agencies be under duties and responsibilities to be alert to the needs of children, to listen to them and record children's views, to identify children in need and to act to improve a child's situation.**

The core idea of item 2 is very important for multi-agency working. Listening to and recording children's views is essential. The item below concerning one lead professional overseeing a case would be supported. However, introducing more duties would need careful consideration.

Sacro would propose that mapping exercises should be completed prior to an action plan or Hearing decision being reached. This would highlight resources available and the lack of these in some areas. A standard needs to be reached as a starting point for all, to ensure the fairness of the system for all people across Scotland.

A system where children are listened to and records kept could be achieved by introducing clear structures and tools that would assist in the identification of children in need and subsequent actions required, although as stated above, this type of approach might be counterproductive and could indeed have a paradoxical effect. However, Sacro, of course, does believe that agencies should be accountable.

**Children's services should minimise the burden of meetings, referrals, processes, report writing, assessments and plans on children, young people and their families. They should also ensure a coherent and effective response to the needs of each child and young person. They will need to establish a local co-ordination and monitoring mechanism. If a child asking for help (or anyone asking for help on their behalf) thinks that an agency has not delivered the agreed help, they should be able to use this mechanism to seek a review of the action of the agency's handling.**

**3. We propose a new duty on agencies to co-operate with each other in meeting the needs of children and to establish local co-ordination and monitoring.**

Sacro supports the proposed co-operation of agencies.

The proposed action would be more likely to meet the stated objective if further measures are introduced. Multi agency working has been encouraged and promoted since the introduction of National Standards, but this has been a patchy process and is often minimally complied with rather than embraced.

Imposing the duty may appear to encourage agencies to comply but as implied above, perhaps an approach enabling agencies to truly co-operate rather than just complying with a 'duty' would motivate rather than scare people.

**4. We propose to develop, with agencies, a single integrated assessment, planning and recording tool for use within a framework of co-ordinated meetings, reviews and planning. These arrangements will in time replace meetings about child protection, looked after children, joint assessment, youth offending and other inter-agency arrangements.**

Sacro would support the proposed action, however, the assessment would have to consider what is the service users and what is a local authority's responsibility. Too often assessment tools do not distinguish between these and everything tends to be considered as being within the service user's power to change. Language used in the tools is also crucial e.g. language which suggests that young people 'do not co-operate' when they have actually changed as much as possible due to the stage of development would be counterproductive. These issues would need to be fully recognised in any assessment framework or tool.

This does not mean that Sacro would be opposed to such a tool, indeed if researched properly, it would be embraced. Perhaps a single tool could act as a biography of the child or young person, which also records protective and other positive factors. This should, of course, be transferred to appropriate (confidential) agencies in the same manner as a medical file and save the young person or their family having to be assessed by each separate agency they are involved with. Again, the issue of co-operation between agencies is further highlighted.

**5. We propose that where a child's needs are complex, serious, require multi-agency input or are likely to require compulsory measures an action plan must be agreed by all agencies involved and kept under review. The action plan will be the principal source of information for the Reporter if the child is subsequently referred.**

Sacro support this proposal and indeed would see this as core to any changes in the system. The basis of Sacro's youth justice work is underpinned by a jointly agreed action plan copied to everyone involved. This action plan could also be integrated into the proposed single tool, and could be copied to allow the involvement of some agencies who would not have access to the whole assessment/action plan tool.

**6. We propose that where there is a need for co-ordinated action, a lead professional from amongst the agencies must be appointed.**

Sacro would support this proposal, as one lead professional would assist the efficient case management. Sacro suggests that it be open to the local authority to establish who would be best to take that lead role. If this could only rest with social work department, then prioritisation of stretched resources could undermine the ability to tackle effectively some children or young people's cases. As with the proposed integrated tool, this proposal could again avoid young people and their families having to tell their story repeatedly to different people involved with their case.

**The Integrated Assessment, Records and Planning Framework – Specific Questions**

**The IAF proposes measures to benefit all children and young people – not just those with additional support needs, those in need or those requiring care and protection. In doing so we have tried to emphasise the involvement of children.**

**? Is there sufficient emphasis and guidance about the child's involvement and are there sections, which need strengthening to make sure that the child or young person is at the heart of the process?**

This is considered to be one of the most important parts of the proposed changes. Sacro would propose that assessments seem already to be made with great care and professionalism. There is then usually a very strict recording procedure in place, however, when it comes to planning and having the resources to deliver the services necessary based on the assessment that lets Scotland's system down. It is therefore suggested that during the consultation, mapping of resources in each area **would be helpful** and ties in with families and children being informed about services they should be able to access (at 1 above)

The final part of section 3 concerning the action plan is also encouraging. Indeed, this may be the section where some form of commitment is asked for from each 'partner' agency in the action plan, in a similar way to restorative acceptable behaviour contracts (RABC's).

This would in effect mean that each agency commits to providing their service(s) as they sign the action plan part of the integrated tool. This would also mean that they are accountable to the other 'partner's' (who would include the young person and their guardians) removing the threat suggested by imposing a duty.

Clear procedures and protocols should be produced to provide guidance on effective practice as regards the child's involvement in the system across all services involved (e.g RJ in the Children's Hearing System Guidance).

**? The assessment triangle has been developed to provide a common approach to working with children and their families using similarly defined language and to recognise positive as well as negative factors in a child's life. In doing so it has tried to capture the child's world, and issues such as key transition points for children, and the diversity of children (including mobility, disability, faith, language, culture and ethnicity). How well does it do so and are there any gaps?**

Again it should be stressed that the assessment should not reinforce that **all** things in the child's life are within their control, or that of the primary caregiver. However, apart from this, the triangle seems to cover everything.

#### ***Making Children's Hearings work***

**Agencies need to use the most effective means of achieving change and reserve referral to Children's Hearings for those children for whom compulsion is a necessity.**

**7. We propose that a referral to the Children's Hearings system should meet two tests – significant needs and a need for compulsion.**

This is important and Sacro would support this. It would be hoped that this would reduce the number of children or young people who are referred simply to access services.

The new Restorative Justice in the Children's Hearing System protocol, also provides the opportunity for young people who have significant needs and/or where there is a need for compulsion to access services, which are designed to assess and address justice and offending issues.

**Under the current law, a specific incident or risk to the child may trigger a referral to the Reporter. However, where a pattern of behaviour causes concern and the individual incident on its own does not merit referral, the underlying need may not be addressed.**

**8. We propose that the indicators of significant need will include a pattern of behaviour which gives rise to concern.**

This would be helpful as focusing on the child/young person as a whole is essential if the most appropriate intervention or service is to be planned for. Restorative approaches focus on the **harm** caused to everyone involved and address patterns of behaviour and thinking, rather than on just the specific incident. Opportunities to assess all indicators including patterns are welcomed.

**Where parents do not provide adequate care for their children, or a child's behaviour is causing serious concern, children's services must work together to achieve what the parents alone cannot or will not manage. This may require compulsory measures of supervision for the child through a Children's Hearing or measures applying to parents (or both).**

**9. We propose that all agencies involved in an action plan agreed at a Hearing are required to implement it. Any plan endorsed by a Hearing as a condition of supervision can only be amended by a Hearing (including the use of secure care).**

As suggested in Point 6 above, the use of one lead professional and committing to an action plan could serve usefully here. The proposal that the action plan (as a condition of supervision) being amendable only by a Hearing is also appropriate. This would avoid agencies amending the parts of a plan where there were no or scarce resources.

**10. We propose that if the referral to the Reporter does not meet the test criteria, the Reporter will refer the case to agencies to act on the Action Plan and will be empowered to seek reports on progress and reviews as necessary.**

Sacro agrees with this proposal.

**There should be speedier access to a Children's Hearing for those children who need it. Pending an agreed longer-term action plan for the child, the Children's Hearings should make an interim supervision requirement to ensure that action is taken.**

**11. Where action is considered necessary in advance of a Hearing reaching a final decision, we propose that a Hearing should make an interim supervision requirement.**

Sacro understands the rationale behind the introduction of interim supervision requirements. Sacro has reservations, however, with respect to their use during the period when grounds are disputed and have gone to a Sheriff for proof. If there are significant risks to the child then other measures to protect that child may be available. Compulsory measures to protect others *prior* to a 'proof' Hearing on offence grounds may be inappropriate. If there are serious concerns about risk and safety, then it seems more likely that this type of case would go to court.

**We are proposing several other measures, which are designed to strengthen the Children's Hearing system and would appreciate any views you have. Please record your views in the space after each proposal.**

**12. The frequency of Review Hearings can be determined according to the child's need and the 'persistence' of the child's behaviour or needs.**

This seems acceptable as long as everyone is clear on the criteria of 'persistence' and that it is not manipulated to access services.

**13. Children whose behaviour or attendance at school is a cause for concern should not be taken out of school to attend Children's Hearings. There should be greater flexibility in the timing of hearings to meet the needs of children and families.**

Sacro agrees that taking children out of school may undermine the importance of education. Flexibility would be needed if the system were truly putting the needs of children at its heart.

**14. Where a Children's Hearing or other meeting is concerned that help and intervention is not leading to a positive change in a child's behaviour, a Hearing should be able to adapt its procedures as appropriate. In particular it should make sure that the child is fully aware of the concern of the Hearing and the potential consequences of further such behaviour. This might include formally requiring the young person to explain why help or intervention has not resulted in improvements. If appropriate, community representatives or victims might be invited to sit in on the Hearing to reinforce that the behaviour has an impact on others, and to understand better what efforts are being made to address the child's behaviour.**

Sacro would see the first part of the proposal as crucial, as many young people are not sure what has been asked of them and often comply under pressure. Making sure that the child is fully aware of the concerns and the consequences is core to the success of any subsequent service provision.

The second part of the proposal is also encouraging and it appears restorative. However, the core of restorative practice is that an independent facilitator is required; this is in the interest of impartiality. Preparation of all involved is also crucial and the question of who would carry out this, as involving those harmed (whether an individual or community) is a sensitive and important part of the process. Best practice would propose that an independent service be employed in this type of scenario.

**15. Children's Hearings must be satisfied that the action plans presented to them are realistic and likely to be effective and that all the available measures to control behaviour (for example, electronic monitoring, Parenting Orders and Antisocial Behaviour Orders) have been considered where appropriate.**

Sacro understands that the proposals intend to reduce the number of referrals coming to the Reporter and arriving at a Hearing. The proposal that all available measures need to have been considered would work only if all areas had equal and a full range of resources available to them. There is a worry that if some resources are not available, then inappropriate measures would be tried as a way of accessing the Hearing system in an attempt to make up for the lack of resources in an area. Full guidelines and protocols would also need to be adhered to, to avoid such 'up tarring' dangers.

**16. Children's Hearings should provide information to communities about the nature of decisions made and their outcomes.**

Sacro see this as helpful. As with item 1, this would help people in Scotland understand the system. However, there are dangers if this is case specific rather than general and we would not support the former.

**17. Procedures are to be introduced to streamline the establishment of grounds for referral where the child is too young, not sufficiently mature or not able to understand the grounds but the parents accept them.**

Sacro welcomes this proposal.

**18. Greater continuity of Panel Members from one Children's Hearing to another is to be achieved.**

Since the option to have continuity is already available by request at a Hearing, it may be best to keep this as an option rather than a change for all. If it were changed then some form of support system for families to object should be introduced.

**Supporting the Children's Hearings better**

**The current arrangements for protection of children's rights at a Hearing are not working as well as they should. The procedures for appointment of legal representatives are cumbersome and do not enable a legal representative to be appointed, where they are necessary, well in advance of a Hearing. This may reduce the ability of legal representatives to discuss issues with the child in advance of the Hearing. We will consult on how best to ensure that legal representatives are skilled in working with children whether through a code of conduct, accreditation scheme or training.**

**19. We propose to place a new duty on the SCRA to ensure the provision of legal representation for children, where this is necessary, under current criteria to protect their rights.**

Whilst this is supported in principle, the proposal suggests that the Reporter will have a duty to identify those cases where a Legal Representative may be appropriate. Furthermore, they would need to initiate the appointment. The need for the Reporter to become involved at the earliest opportunity is therefore highlighted.

**The rights of parents, and others involved in a Hearing, to full information about a child has led to the disclosure of information that may have placed children at risk.**

**20. We propose to legislate to enable Children's Hearings and Reporters to withhold information provided by the child when its release may place the child's welfare at risk.**

Sacro supports the proposal as far as protection of the child is concerned. However, care is needed in relation to the withholding of information provided by a child. Currently, all adults (apart from Panel members) can be asked to leave the Hearing so that Panel members can listen to the views of the young person in private. At the moment, the general gist of the conversation is then disclosed to the adults when they return. This is explained to the young person at the outset. If this were removed, there could be increased pressure on the young person to disclose such information after a Hearing. The suggested changes to practice could in some instances increase risks for the child. The appointment of a Safeguarder would also ensure the child's best interests were assessed.

**We have commissioned research on international approaches to advocacy and the voice of the child and current provision in Scotland. We will consider the results of this research before recommending a way forward. The proposals outlined above may remove the necessity of a Safeguarder being appointed.**

**? We invite views on whether the role of the Safeguarder should be maintained and/or available to any service, which requires an independent assessment of the child's best interests.**

The present system for appointing Safeguarders should be retained and resources secured to ensure adequate access to Safeguarders.

**We need to introduce more flexibility into the structure of the Children's Hearings system. Panel members should continue to work in their own locality as much as possible but we want to remove the barriers to them sitting on Children's Hearings outside their immediate local authority.**

**21. We propose amending the Children (Scotland) Act 1995 to remove the requirements that Children's Panels and Children's Panel Advisory Committees be linked to local authority boundaries.**

Sacro feels that it would be helpful if this were introduced to help with flexibility of when Hearings were called. Issues in smaller localities, where Panel members may know children or families personally may also be addressed, if they were able to take part in Hearings in other local authorities.

**Phase 1 of the Children's Hearings Review clearly demonstrated some dissatisfaction with the level and consistency of support provided to Panel Members, and in the arrangements for the payment of their expenses and allowances. There are two options for improving consistency:**

**Local authorities retain their administrative responsibilities for the Children's Hearings system and work in regional groupings. This would guarantee that panel members in the groupings receive the same level of support.**

**Support arrangements are managed by a national body with local administration.**

**Under either option, the supporting body would work to national standards for recruitment, monitoring and training. The regional or national body would support the activities on recruitment, training and monitoring which are currently the responsibility of CPACs.**

**22. We propose improvements in and modernisation of the arrangements for the recruitment, training, support and monitoring of panel members through the establishment of either a single national body or a local authority regional structure. We invite views on whether a regional or national approach is preferable.**

A National Structure with National standards of support and supervision/learning outcomes, with regional delivery to Panel members would be best. It is important that Panel Members as well as the young people have an effective system of support.

#### **Improving public confidence**

**Public confidence in the Children's Hearing system and in children's services could be improved. A number of reports and Phase 1 of the Children's Hearings Review indicate that the public is concerned that action is sometimes not taken when it should be and that sometimes action is taken when it should not be.**

**23. We propose agencies keep the public and communities informed about what is being done with their concerns and help them understand that the focus is on effective action and not processing children through the Children's Hearings.**

This is essential and publishing leaflets and annual reports does not always achieve this. Perhaps the helpline mentioned earlier and involving communities in their own solutions, for example through restorative justice, can help in this area.

The media fuels the public perception that nothing is being done and that everything is a 'soft option' and so this issue is very difficult to tackle. Perhaps it is time to stop using data protection and other confidentiality systems to hide the successes of our young people and families.

Presenting the range of services available would be more effective as people could hear the real life stories. How this can be achieved would need careful thought.

**Additional comments Sacro would like to make:**

Keeping the child at the heart of the system means that the proposed changes need to be carefully considered.

It is encouraging that the Scottish Executive proposes to take action. However, there are ways of encouraging accountability and co-ordination that do not necessarily involve imposing duties and sanctions that are more in line with the whole ethos of Scotland's Hearings System.

A mapping exercise completed before an action plan/hearing decision would be supported. A 'standard' needs to be a starting point and a mapping exercise would highlight lack of resources in any given area. Some local authorities do not have the resources to provide every type of service, which has implications for any proposed duty that may be imposed on them. In this respect it cannot be said that we are yet 'getting it right for every child'.

Letting Scotland's people know what the System is set up to do and the range of options available to it would also be of great benefit.

Clearer integrated assessment, recording and planning tools, combined with the introduction of a lead professional and retaining the option to request one consistent Panel Member in someone's case would also be helpful.

Finally, inspection and quality assurance can only be initiated once a 'bedding in' period has been allowed, if they are not to be treated as a threat by most agencies.