

**Child Rights and Wellbeing Impact Assessment (CRWIA)  
Children’s Advocacy in Children’s Hearings System**

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| <p><b>CRWIA for the introduction of Children’s Advocacy in Children’s Hearings System</b><br/>Date of publication: 10/09/2020</p> |   |
| <p><b>Executive Summary</b></p>   | <p>The main purpose of section 122 in Children’s Hearings (Scotland) Act 2011 is to provide advocacy services for children and young people referred to the children’s hearings system.</p>   |
| <p><b>Background</b></p>  | <p>Section 122(2) of the Children’s Hearings (Scotland) Act 2011 Act places a duty on the chair of every children’s hearing to inform the child about the availability of children’s advocacy services.</p> <p>Section 122(4) and 122(5) contain regulation making powers which enable Ministers to make provision for, and enter into arrangements to ensure access to, independent advocacy services for children who are referred to children’s hearings.</p> <p>To allow time to develop advocacy support for children attending hearings, it was determined in 2013 that section 122 should not be commenced with the Act’s other main provisions. The concern has been to avoid obliging children’s hearings panel members to alert children to the ‘availability’ of advocacy in the absence of a fully-resourced provision.</p> |
| <p><b>Scope of the CRWIA</b></p>  | <p>The CRWIA considers whether the introduction of children’s advocacy in the Children’s Hearings System impacts on the rights and wellbeing of children and young people in Scotland.</p> <p>The Scottish Government are of the view that the provisions will advance the realisation of children’s rights and wellbeing in Scotland.</p> <p>The CRWIA should be read in conjunction with the other impact assessments conducted for introduction of this provision.</p> <p>The Privacy Impact Assessment considers the impact of the provision on an individual’s right to privacy. The Equality Impact Assessment considers the potential impact of the provision on each of the protected characteristics.</p>  |

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| <p><b>Children and young people's views and experiences</b></p> | <p>Since 2015, officials have worked with relevant partners, including Who Cares? Scotland, Barnardo's, Inspiring Scotland, Your Voice, SCRA and CHS, to consider how advocacy services could be provided in the best interests of children and young people within the modernised hearings system - undertaking various pilots across the country.</p> <p>Scottish Government issued a discussion paper to the care and justice sectors on 22 January 2019. The government wished to seek views on certain aspects of children's hearings advocacy.</p> <p>Scottish Government participated in workshops with the Members of Scottish Youth Parliament in October 2019. Consultation questions about children's advocacy were posed to MSYP's constituents in an online survey which ran from 27 September to 30 October 2019. 817 responses from young people aged 12-25 across Scotland, from all 32 local authorities, were received.</p> |
| <p><b>Key Findings</b></p>                                      | <p>Key messages from this engagement were:-</p> <p>The availability of an advocacy worker is very positive both for the children and young people and for children's hearings panel members. It has become clear, however, that it is difficult to separate support at and around the legal forum that is a children's hearing from the many other decisions that are being made with and for vulnerable children.</p> <p>For Children and young people who responded their preferred way of giving views on their experience of working with an advocacy worker were:</p> <ul style="list-style-type: none"> <li>(i) face to face – 9.3% (70)</li> <li>(ii) completing a questionnaire – 9.75% (73)</li> <li>(iii) anonymously only – 10.5% (79)</li> <li>(iv) not interested in providing feedback 8.5% (64)</li> </ul>   |
| <p><b>Conclusions and Recommendations</b></p>                   | <p>High quality children's advocacy should always have the same key features, no matter who provides the support.</p> <p>Irrespective of who is providing advocacy to a child, it is crucial that that person – and everyone else present - is clear about the boundaries of the role. An advocate must never promote or support any other individual or organisation's needs or wishes (including their own) when they are advocating for a child. To do so would result in a conflict of interest. If an advocate feels unable to support the child because of the above, someone else should be</p>  |

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|                              | asked to provide advocacy support.   |
| <b>Monitoring and review</b> | Regular data returns will be required of the successful primary, alternate and any spot-purchase providers. A review will be undertaken after the provision has been implemented and the measures introduced have been in operation for a suitable period of time. |



| Children's Hearings (Scotland) Act 2011  | Aims of Measure  | Likely to Impact on...   | Compliance with UNCRC requirements   | Contribution to wellbeing indicators   |
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| <p><b>Section 122 (2):</b> the chairing member of the children's hearings must inform the child of the availability of children's advocacy services</p>      | <p>Children and young people attending Children's Hearings across Scotland will be able to access a service which will allow their voices to be heard, and have their views taken into consideration, when decisions are made about their lives.</p> | <p>Children and young people referred to a Children's Hearing.</p> | <p><b>Article 3: (best interests of the child)</b><br/>The best interests of the child must be a top priority in all decisions and actions that affect children.</p> <p><b>Article 12: (respect for the views of the child)</b> Children have the right to an opinion, and for it to be listened to and taken seriously.</p> | <p>Impacts on Respected and Included.</p> <p>This provision should have a positive effect on wellbeing indicators. It seeks to gather views and opinions from children and young people and to ensure those views are presented, either by the child themselves or by an independent advocacy worker on their behalf, to the hearings panel members.</p> |
| <p><b>Section 122 (4):</b> The Scottish Ministers may by regulations make provision for or in connection with – (a) the provision of children's advocacy</p> | <p>The provision of independent advocacy will be achieved by ensuring advocacy workers do not make choices for children or offer their own views (or those of their employer) rather they support children and young people</p>                      | <p>Children and young people referred to a Children's Hearing.</p> | <p><b>Article 4: (implementation of the Convention)</b><br/>Governments must do all they can to make sure every child can enjoy their rights by creating systems and passing laws that</p>   | <p>Impacts on: Respected, and Included.</p>  |

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| <p>services</p>  | <p>to express their own opinions.</p>   |  | <p>promote and protect children's rights.</p>  |  |
| <p><b>Section 122 (5):</b><br/>the Scottish Ministers may enter into arrangements (contractual or otherwise) with any person other than a local authority, GHS or SCRA for the provision of children's advocacy.</p> | <p>By entering into arrangements with 'independent' advocacy providers there is no conflict, perceived or otherwise, and children's views and opinions are supported.</p> | <p>Children and young people referred to a Children's Hearing.</p> | <p><b>Article 4:</b><br/><i>(implementation of the Convention)</i><br/>Governments must do all they can to make sure every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights.</p> | <p>Impacts on: Respected, and Included.<br/><br/>The contractual arrangements will ensure access to independent advocacy services for children involved in the hearings system.<br/><br/>Independence from state agencies like Scottish government, Local Authorities and other public bodies are vital to the child or young person's confidence that the service is independent.</p> |



**CRWIA Declaration**

Tick relevant section, and complete the form

**CRWIA required**

**CRWIA not required**

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**Authorisation**

**Policy lead**

Pam Semple  
Advocacy in children's Hearings  
National Team Leader  
Care, Protection and Justice

**Date**

**31 December 2019**

*Lesley Sheppard*

**Date**

**10/1/2020**

**Lesley Sheppard, Deputy Director  
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