

## **Children's Hearings Redesign - consultation – October 2024**

### **Inspiring Scotland's response**

**Submitted: 28 October 2024**

The children's hearings system is Scotland's system offering legal protections to children who are in need or at risk, and who require its support.

This consultation is part of a series of steps to ensure that Scotland's children's hearings system can be redesigned to build on its strengths so that it can deliver the best possible experience to the children and families in need of its support. It focusses on areas which may require changes to the law.

### **About intandem and our response**

Managed by Inspiring Scotland, intandem is Scotland's mentoring programme for children and young people at risk of care or with experience of care. Most young people supported are living in kinship care or are looked after at home, but some are in other forms of care. Mentoring starts between the ages of 8 and 15 years meeting once a week in the community for as long as needed.

Established in 2016, intandem is delivered by 12 partner charities across 20 local authorities. Partner charities and mentors often build trusted relationships with the family, and it allows families to benefit from support.

intandem submitted the following response to the consultation after seeking the opinions of these groups:

- young people mentored by intandem with experience of the children's hearings system,
- young adults who are volunteer mentors with intandem and have their own lived experience of the children's hearings system,
- kinship carers supported by intandem who have experience of the children's hearings system,
- staff of intandem partner organisations who work directly with young people and families, and
- staff of the Inspiring Scotland Perinatal and Infant Mental Health fund team.

intandem responded to questions where those consulted had views to share.

## Before a Children's Hearing

### 5.3 Participation and attendance

#### **Do you agree with the recommendation to remove the child's obligation to attend their hearing, to be replaced with a presumption that the child will attend?**

Everyone consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – agreed that the child's obligation to attend their hearing should be a presumption rather than an obligation. Each child is unique and removing the child's obligation to attend would allow the system to consider the needs of each child.

*A kinship carer commented "for older children it's up to them if they want to attend, but it can get pretty heated so I think if the child is too young to understand or, in our case the child was neurodivergent, they shouldn't have to be there."*

*Another kinship carer also felt strongly that a child shouldn't be obliged to attend. She highlighted "it's not a child friendly environment so they shouldn't have to attend. Their voice is sought in other ways and it's not good for a child's mental health to be there, it can be very difficult."*

Everyone consulted highlighted situations where hearings they had attended had been at best tense, at worst extremely traumatic. Circumstances included children facing estranged parents, detailed disclosure of information about parents in front of children (e.g. prostitution and domestic violence), and manipulation of children and what they should say at panel meetings, were all raised.

*A young adult commented "it's traumatic, it can get heated, and they are talking about you. They were horrible, I hated them. Seeing people in a room, speaking about your personal stuff, it's horrible. You think the worst is going to happen. A child shouldn't have to go."*

However, another young person with experience of the children's hearings system felt children should be there if there is flexibility to fit around their needs.

Professionals confirmed they see examples of young people able to attend and manage the situation, but others where it's extremely difficult and the effect of attending can last for weeks. Each child is different, and their circumstances are unique, so removing their obligation to attend would allow the system to be more child centred and minimise additional trauma.

Removing a child's obligation to attend would also reduce the current inconsistency in practice across Scotland. A professional shared her experience of working in one locality where children were obliged to attend, compared to another locality where children were not asked to attend. There should be consistency across Scotland.

### **Does the hearing need a power to overrule the child's preference not to attend their hearing in certain circumstances?**

Everyone consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – agreed there shouldn't be a power to overrule the child's preference not to attend their hearing. Based on how stressful and traumatic the panel meetings can be for the child it feels more appropriate that their participation is supported in another way rather than be obliged to attend a hearing.

A young adult commented, *"there should always be a choice, it's the young person that matters the most and their wellbeing. There shouldn't be any force."*

This was also the opinion of professionals, one confirmed *"no child should be forced to attend"*, with another commenting *"what is the point in giving them a view if you're not going to listen to it."*

### **What steps could be taken to support the child's participation and protect their rights, if they choose not to attend their hearing?**

Those consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – felt there were several ways a child's participation, and their rights could be supported if they chose not to attend their hearing. The need for someone working with the child who holds a trusted relationship and can work with them to explore their genuine thoughts and opinions was a common thread. Manipulation by parents was a topic raised by most consulted so supporting a child's participation in a way that minimises manipulation is essential.

A kinship carer commented *"their participation could be through play therapy, a mentor, counsellor, advocacy worker or safeguarder. The most important thing is it's done in a child-friendly environment."*

A professional shared she had worked with a play therapist in advance of a children's panel meeting for a child she supported. It worked well and it was a way for the child to share their voice in a way that couldn't be manipulated by the family which was a significant concern in this instance.

Another professional commented that offering a video link for a child could be a way for them to participate if they didn't want to attend in person. This may be less intimidating for a child, but also may reduce the stigma for a young person who must leave school to attend their hearing.

#### 5.4 Voices of very young children

##### **Do you agree that particular arrangements should be made to capture and share the voices and experiences of very young children in a redesigned children's hearings system?**

We agree that arrangements should be made to capture and share the voices and experiences of very young children in a redesigned children's hearings system. The human rights of babies, infants and young children must be upheld by making sure arrangements are in place to capture and share their voice and experience.

Pregnancy and the first 1,001 days of life are a critical window for mental, physical and cognitive development and it is essential that this is recognised, and extra steps put in place to safeguard children at this crucial time.

As babies and infants can't yet speak, it's important that important adults in their life advocate for them and the Scottish Government's voice of the infant best practice guidelines should be followed.

#### 5.5 The offer of advocacy to the child

##### **Should the focus and wording of section 122 of the 2011 Act be reformed to reflect an earlier, more agile and flexible approach to the offer of advocacy to the child?**

Everyone consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – agreed that section 122 of the 2011 Act should be reformed to reflect an earlier, more agile and flexible approach to the offer of advocacy to the child.

An advocacy worker should be introduced as early as possible, and the young person should have the choice of whether they want to have an advocacy worker or not. The need for someone working with the child, and the ability to build a trusted relationship with them over a period was seen as essential.

A kinship carer told us about the experience of advocacy for the child in her care; *"advocacy should be offered, but it needs to be more consistent. An advocacy worker appears before his hearing, and he knows it means he has a panel meeting coming up. There needs to be more continuity with the advocacy worker so it's not so obvious it links with a panel meeting because it has an impact."*

Several people mentioned a fear of their, or their child's, words being twisted by an advocacy worker and the importance of this not happening. One kinship carer commented *"an independent advocacy worker is very important, but I felt our child's words were taken out of context - they said it their way, how they perceived it, and it had big repercussions."*

A young adult highlighted *"speaking to someone you trust is key, not just someone who appears to speak to you for the purpose of the panel meeting, it's not nice. However, the right to an advocacy worker is important, especially if you don't have someone fighting your corner."*

A young person also raised the concern of speaking to someone specifically about a panel meeting, saying *"I don't like speaking to random people, I wouldn't tell the whole story."* This was reinforced by

another young person, who commented *“it’s important to have someone who is there for you, someone you trust, someone you can speak to honestly”*.

The importance of being able to build trust with an advocacy worker came up consistently, with another young adult commenting, *“if you are appointed someone it should be someone you could get to know, then you’d feel more confident that the information is kept confidential until the hearing and used in the right way. If I was told to speak to a random stranger about all my family stuff I wouldn’t say it all.”*

Taking these comments into account, offering earlier, more agile and flexible advocacy to the child is undoubtedly positive.

### **How should the rights and the view of children and young people of all ages, including very young children, be better represented in the children’s hearings decision making?**

The rights and views of children and young people could be better represented in the children’s hearings decision making. Suggestions provided by those we consulted included:

- more advocacy workers appointed,
- more time provided to ensure advocacy workers can build the necessary relationship and trust with the young person,
- the opportunity for a young person to visit the building in advance of their hearing so they feel safe on the day of their panel meeting,
- opportunities for children and young people to speak with a smaller number of adults in a less formal setting before each hearing, and
- the opportunity for a young person to join by video link to minimise disruption to their education, reduce stigma, and minimise the potential trauma of the panel meeting.

#### **7.1 Enhancing the role of the children’s reporter**

##### **How could a redesigned children's hearings system better protect babies shortly after their birth?**

The children’s hearings system should ensure the voice of the infant is present, supported by their important adults advocating for them. To ensure this happens, the relationship between baby and a primary care giver must be prioritised, not just meeting physical needs but also meeting emotional needs. Important adults around a baby must be fully supported in building this critical relationship.

##### **What can be done to improve interagency pre-birth preparatory work?**

It is important the children’s hearings system works in close collaboration with third sector partners who are building strong and trusted relationships in pregnancy and would be well positioned to provide the wrap around support / care.

Ideally, this process should start pre-pregnancy as the best predictor of birth outcomes is the physical and mental health of a women at time of conception (<https://rshp.scot/wp-content/uploads/2024/01/Preparing-for-Parenthood-Prop-3.pdf>).

## **The Children's Panel and Children's Hearings**

### **8.1 A redesigned children's panel**

#### **Do you believe the children's panel element of the children's hearings system should retain the unpaid lay volunteer model in whole or in part?**

From those consulted— young people and young adults with experience of the children's hearings system, kinship carers and professionals – the overriding opinion was the children's hearings system should retain the unpaid lay volunteer model.

A kinship carer consulted felt a volunteer might have more independent views rather than someone who is paid, and this impartiality was felt to be essential for the role. However, some professionals questioned whether the role is too much to ask of a volunteer. One professional shared witnessing panel members being on the end of abuse and threats and felt this was challenging for a volunteer.

Many consulted commented on the need for more training of volunteers. A kinship carer commented *"there should be more professionalism in the system, particularly around training on child development as the hearing looks at things in terms of the law instead of the development needs of the child and the impact of trauma"*.

This point was also highlighted by a young adult with experience of the children's hearing system. She commented, *"more specialised training of volunteers is needed, they can be very closed minded, it's a young person's life they are making decisions on."*

The professionals we spoke to also reinforced this point and highlighted that volunteers either need appropriate background or training on subjects such as trauma and adverse childhood experiences.

A professional with prior experience of sitting on the panel felt the panel should remain as volunteers, however the mandatory requirement to Chair should be removed. He felt Chairing Members should be selected on merit and ability so that those who aspire to become Chairs and have the necessary attributes have a goal to aim for whilst the pressure of Chairing is removed for others.

### **8.3 Engagement with the Chairing member before the Children's Hearing**

#### **Should the chairing member of the hearing meet the referred child, their family or representative to welcome them to the centre and offer any appropriate explanations and reassurances before the actual children's hearing?**

From those consulted— young people and young adults with experience of the children's hearings system, kinship carers and professionals – it was viewed relatively positively that the chairing member of

the hearing meet the referred child, their family or representative to welcome them to the centre. Young people and young adults felt this addition would make the experience less intimidating and it would be positive to see a familiar face at the panel meeting, if they chose to attend. A young adult commenting on his experience of attending a panel meeting said you are thinking "*this is scary, I don't know these people.*"

A kinship carer commented that the chair meeting with the child was positive, but it would be better if it was in a place where the child felt comfortable. She felt this would help the chair get a better perspective on the child. Meeting a child in a place where they felt safe was also mentioned by young people and young adults.

### **8.7 Continuity of Panel members in children's cases**

#### **Should consistency or continuity of chairing member be the default position for each child's hearing?**

The young people, young adults and kinship carers consulted felt that continuity of a chairing member should be the default position for each child's hearing.

The young people and young adults felt continuity was important to make the situation less intimidating overall. Continuity of relationship between the young person and the panel was seen as positive as they are making such critical decisions. The feeling that strangers had the power to make pivotal decisions about their life was a recurring issue raised by young people.

For adults, continuity of panel members was seen as a positive step and an opportunity to ensure things discussed in panel meetings were followed through. A kinship carer commented "*sometimes it feels like promises are made in panel meetings but nothing happens because people are different the next time. If there was continuity, there would be more accountability to make things happen.*"

Professionals tended to agree that for a child attending a panel meeting, continuity of a panel member could make the process easier. However, it must be noted that it was also raised that continuity removes the opportunity for each panel member to consider the case independently with a fresh set of eyes, and ensure they aren't emotionally invested.

#### **Would you support one single children's panel member's consistent involvement as an alternative approach?**

All of those consulted felt one single children's panel member's consistent involvement was acceptable, with a professional commenting, "*a young person would respond better to the panel because there would be a level of comfort that they know my story, know my family and how I might react in a situation.*"

## During a Children's Hearing

### 8.10 Recording of Children's Hearings

**In your view, should children's hearings be routinely recorded?**

**If yes, which method of recording should be routinely used? Written, Audio, Video, Other.**

The majority of those consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – agreed that children's hearings should be routinely recorded. There was a sense that the minutes currently taken don't always reflect what a young person or family think has been discussed and this creates a sense of frustration and mistrust of the system. Recording was seen as a way to check and correct any discrepancies.

A kinship carer commented *"record the hearing in every way possible! The minutes don't always exactly record how it was said or meant. Even with it being written down, when you bring it up, it's not what is said."*

Another kinship carer said *"it should be recorded, at least written and audio. When you get the minutes, they are not exactly as discussed which causes issues."*

A young adult felt video recording would be helpful so you can see body language and pick up tone of voice.

Overall, recording the panel meetings, at least in audio format, would be helpful for those attending to remove the fear of discrepancies and the stress this brings if it does happen.

### 8.11 Child friendly summaries of decisions

**Should there be a statutory requirement for the production of age and stage appropriate summaries of Children's Hearing decisions?**

Everyone consulted – young people and young adults with experience of the children's hearings system, kinship carers and professionals – agreed that an age and stage appropriate summary of the children's hearing decision should be a statutory requirement.

An age and stage appropriate summary would be important for all children, but consideration must also be taken of any additional learning needs.

A young adult commented *"Yes, this is important. It would make it easier to sit down and speak to the child about the decision."*

Many consulted also highlighted that a summary should be made available in a format and language appropriate to the parents/guardians/carers too as some adults in the hearing will have learning difficulties or limited literacy.



## **Thank you**

Inspiring Scotland would like to thank everyone who contributed to this response including young people mentored by intandem, young people who are members of the intandem youth forum InVoice, young adults who are now trained intandem mentors with lived experience of the children's hearing system, kinship carers, staff of intandem partner organisations who work directly with young people and families, and staff of Inspiring Scotland Perinatal and Infant Mental Health team . Our partner organisations are Aberlour, Barnardo's, Move On, YMCA Edinburgh, Right There, Y Sort It, Kirkcaldy YMCA, Befriend a Child, Quarriers, Action for Children, COVEY, and TCA.

For more information, please contact Christine Roxburgh, intandem's Policy and Participation Lead on [christine@inspiringscotland.org.uk](mailto:christine@inspiringscotland.org.uk).

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