

# Children in Scotland

every child - every childhood

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## PARLIAMENTARY BRIEFING

### Children's Hearings (Scotland) Bill -- Stage 3

Wednesday, 24 November 2010

Children in Scotland has strongly supported the inclusion of a number of important refinements of the Children's Hearings Bill. Some of these have been covered by amendments introduced and agreed by the Education, Lifelong Learning and Culture Committee during Stage 2 of the Children's Hearings Bill. Further amendments of significance to us have been tabled for debate by all MSPs at Stage 3. Some cover new ground, whilst others are intended to change amendments approved by the Committee.

Children in Scotland encourages all MSPs to **support** amendments in three key areas:

1. Effective and meaningful involvement of children and young people in various aspects of the Children's Hearings system
2. Access to advocacy in those cases where children and young people believe that this is necessary for their views to be known and properly understood
- 3. Establishing a robust 'feedback loop' within the Bill -- to ensure that the impact of Hearings decisions on the well-being of children and young people having compulsory supervision orders is both discovered, analysed and reported on both an individual and aggregate basis.**

#### 1. Involvement

Children in Scotland supports incorporating the spirit of Article 12 of the UN Convention on the Rights of the Child throughout the Children's Hearings system. This Bill should be clear that children and young people are entitled to have their views solicited, heard and heeded in a respectful, serious manner (to the extent that their competence allows them to express those views) on matters affecting their lives, futures and well-being.

Specifically, we welcome the provision introduced at Stage 2 that supports and strengthens the involvement of children and young people in respect of the appointment of the National Convener and the functions of the Principal Reporter. Stage 3 amendments 1, 6 and 103 seek to change their wording, but not the direction of travel. **Whether these three amendments are carried, or the existing wording retained, we would urge that the subsequent official guidance makes it clear that involvement of children and young people within the Children's Hearings system must be active and purposeful.**

For the same reasons, in regard to the conduct of the Hearings themselves, **we urge support for Margaret Smith's amendments 146 and 147.** These seek to ensure that

the views of a child who is the subject of a Children's Hearing are obtained, and discretely presented to the Panel members.

## 2. Advocacy

The inclusion, at Stage 2, of provision for advocacy, is welcomed (Section 29A). Amendments 12 and 61, tabled by Christina McKelvie, respectively remove this section and bring forward a revised approach. It is essential that provision for advocacy for children -- who may not otherwise be able to represent their views in a coherent and persuasive manner -- remains in the Bill. **We encourage all MSPs, therefore, to either support both amendments (12 and 61), or neither one.**

## 3. "Feedback Loop" (Section 173)

The most valuable contribution of this Bill to the improvement of Scotland's landmark Children's Hearings system can make would be to **enshrine in law the duty to robustly gather, analyse and report the actual impacts of its decisions upon the lives, life chances and well-being of the vulnerable, needy and troubled children and young people who are subject to compulsory supervision orders.**

It is imperative that all concerned -- from individual panel members to the Scottish Parliament -- clearly understand, not only that a decision has been made and implemented by the Children's Panel, but also the ways in which, and extent to which, it is (or is not) actually making a positive difference to each and every child who is the subject of a compulsory supervision order.

At Stage 2, the Committee approved Ken Macintosh's amendments 467 and 468 to Section 173. 467 dealt with reporting back to the panel members who made such decision as to the consequences for the well-being of each child issued with such an order. The Scottish Government successfully recruits new Children's Panel members through its social marketing campaign. The current theme is "*Help fix the cracks in a child's life*". **And yet, current Panel members currently have no systematic way of learning whether or not these cracks actually end up being fixed** -- and thus, whether their decision was right.

How can these non-specialist Children's Panel members be expected to continually improve their own decision-making abilities without knowing such fundamental information about what happened to each of 'their' children? Aggregate national information will tell panel members nothing about the quality and consequences of *their* decision about *each* individual child with whom they dealt. And, whilst there is significant diversity amongst them, it is hard to believe that most panel members have *no interest in what actually happened* to the specific children who appeared before them.

On the contrary, we believe that the current failure to 'close the loop' in this way is a source of frustration to panel members and one reason why some of them end their involvement. This, in turn, does nothing to help with further recruitment and retention of these vital links in the Children's Hearings chain.

However, we do support a 'manuscript amendment' at Stage 3 that would change the frequency of reporting to panel members about individual children **from "quarterly" (as it now stands) to "annually"**. We also are in favour of this report back to the original panel members being a clear and concise **one-page summary about the current well-being and progress made (or lack thereof)** for each of 'their children.

The idea that such a report would compromise confidentiality is a nonsense, given that these panel members already have seen each child's information and decided on each one's case. Similarly, we reject the claim that preparing such summary reports would simultaneously be a 'duplication' of existing reports and a 'new burden'. It *cannot* be both – and Children in Scotland is convinced that it is neither.

Rather, it is a much-needed reality check that some would prefer to avoid. As we noted in our written evidence to the Committee at Stage 1: *This will require oversight of the actual impact of the Hearing decision upon the child involved; whether positive change for that child is being achieved; and what to do if that child has not benefited in meaningful and lasting ways. Greater awareness of, and robust evidence about, the nature of intervention and its consequences can only lead to better decision-making on the part of the Hearings. It also is what can lead to better childhoods and better futures.*

The second amendment agreed at Stage 2 (468 within Section 173) underlines the accountability to Scottish Ministers for the overall impact of Hearing decisions, thus ensuring that increasingly limited public resources are used wisely and effectively. Less needs to be said about this one because there is a much smaller gap between this second amendment to Section 173 passed by the Committee and the Scottish Government's substitute amendment (98) at Stage 3.

There are three possibilities available to MSPs at Stage 3. We will state each option in our order of preference; starting with the one we favour most.

**Option 1: We support approving Section 173 as it currently exists, as long as it is accompanied by a manuscript amendment changing "quarterly" to "annually".**

Option 2: We would support the Minister's amendments 97 and 98 – effectively a substitute for the current Section 173 – **if, and only if**, it is accompanied by two manuscript amendments. The first would restore the language about reporting back to the original panel members on the well-being and progress of each individual child having a compulsory supervision order (again, with "quarterly" amended to "annually"). The second would incorporate the language of Ken Macintosh's amendment 98A into the Amendment 98. This would add that aggregate, national report would focus on the actual results of Hearings' decision in terms of the well-being of the children directly affected.

Option 3: If the Minister's amendments 97 and 98 are passed 'as is', then we support Ken Macintosh's amendment 98A, which would inject the 'well-being' criterion back into the Bill's feedback loop.

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