Briefing for the Public Petitions Committee

<table>
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<tr>
<th>Petition Number:</th>
<th>PE1673</th>
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<tbody>
<tr>
<td>Main Petitioner:</td>
<td>James Mackie</td>
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<tr>
<td>Subject:</td>
<td>Child Protection and Children’s Hearings</td>
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</tbody>
</table>

Calls on the Parliament to urge the Scottish Government to create an independent, QC-led inquiry into the operation of child protection services in Scotland.

Background

In this petition and accompanying information, the petitioner offers a critique of the Children’s Hearings System and the non-statutory system for child protection. He states that, “The system which governs the operation of child protection services in Scotland does not work” and that the Children’s Hearing System is, “flawed” and operates on the principle of, “‘risk to children’ as presented by the ‘professionals’” rather than on an evidential basis.

The Children’s Hearings System is legislated for in the Children’s Hearings (Scotland) Act 2011. This Act consolidated existing legislation and made mostly structural changes to the Children’s Hearings System. It followed a period of review which started around 2004 and coincided with the development of the ‘Getting it Right for Every Child (GIRFEC)’ approach to improving outcomes and supporting the wellbeing of children and young people.

Anyone can make a referral to a Children’s Reporter, who then decides whether a statutory ground for referral has been met and also whether a Hearing is required to consider whether compulsory measures of supervision are needed. This can result in the child being placed in care. Most referrals come from the police and most children are referred on grounds of ‘lack of parental care.’ The two statutory agencies underpinning the system are the Scottish Children’s Reporter Administration (SCRA) and Children’s Hearings Scotland. The decisions of Hearings are implemented by local authorities.

In some cases, parents are entitled to legal aid at children’s hearings and associated court proceedings.

The petitioner also refers to Child Protection Orders. These are statutory emergency orders which enable a child to be removed to ‘a place of safety.’
They must be followed up with a Children’s Hearing within strict time limits. In summary, the criteria for a CPO is that the sheriff is satisfied that there are reasonable grounds to believe the child has been, is being or is likely to suffer significant harm or neglect and the order is necessary to protect the child from further harm.

The other major component of the system is the procedures around the child protection register. These are non-statutory. If any measures of compulsion are required the local authority must either make a reference to the Reporter for a Hearing or to the Sheriff. Guidance on child protection was issued by the Scottish Government in 2014.

**Scottish Government Action**

There have been a number of reviews in this policy area over the years.

A **Child Protection Reform Programme** ran from 2003 to 2006.

The Children’s Hearings System was reviewed by the then Scottish Executive from 2004 – 2006, eventually resulting in the Children’s Hearings (Scotland) Act 2011. Over this period, much work was focused on reducing the number of unnecessary referrals (particularly from the police) improving joint working and encouraging preventative working by agencies.

More recently, in 2016 – 17, the Child Protection Improvement Programme looked mainly at child protection systems, but also considered the Hearings system. It reported in March this year. Findings included that:

“The Systems Review Group found that when children or young people are identified as being at risk of or subject to significant harm then the child protection system in Scotland works well and the components that the Group were asked to review are capable of delivering the support needed for these vulnerable children and young people.”

The report included the commitment to:

“...reconvene the Child Protection Systems Review Group in April 2018 in order to review progress on the recommendations.”

The report was accompanied by a **Ministerial statement** on action to be taken and publication of ‘It's still everyone’s job to make sure I’m alright’. In his statement, the then Minister, Mark McDonald, said:

“If there is little evidence in a year’s time of real and substantial progress in delivering improvements, the Government will introduce legislation to provide an appropriate underpinning for child protection committees, the use of the child protection register and the conduct and application of initial and significant case reviews. In particular, it will be vital that I see evidence of consistent good practice in child protection committees; effective leadership in community planning partnerships and engagement by all relevant agencies; adherence to
child protection guidance; initial and significant case reviews being undertaken when necessary and shared with the Care Inspectorate; and agencies demonstrating that practice is changing as a result of relevant findings.”

A National Child Protection Leadership Group has been established to take forward implementation of the report’s recommendations. Its remit is set out in this letter to the Education and Skills Committee.

In a related area, the First Minister has launched an independent 'root and branch' review of the care system, with the focus on learning from care experienced young people. This is being led by Fiona Duncan, Chief Executive of Lloyds TSB Foundation. Reflecting its participative approach, it does not yet have a set remit.

Other useful reports reviewing the system include:


Scottish Parliament Action

The Education and Skills Committee this session, and its equivalent last session has conducted inquiries in related policy areas, including:

- 2013: Report on decision making on whether to take children into care
- April 2016: Taking Stock of Children’s Hearings Reforms
- September 2016: evidence session on children’s services

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16 November 2017

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