

13 March 2017

Stephen Imrie
Clerk Team Leader
Education and Skills Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

— For the attention of Committee Members

Call for Evidence – Children’s Hearings System

Thank you for your email of 1 March 2017 inviting COSLA to submit written evidence on whether and how the Children’s Hearing System can be improved. Committee Members will appreciate that with the very short timescale for responses that it has not been possible to consult fully with our membership and this response is informed by consultation with a small number of stakeholders.

Firstly, COSLA would like to acknowledge and thank the Children’s Panel members and the Area Support Team members who are all volunteers. These people do a very important job and give up their time freely for the benefit of their communities, and it is important that they are encouraged and well supported in these roles.

The position adopted by COSLA in 2010 in relation to the Children’s Hearing Scotland Bill (the Bill) was that we recognised that there were some issues to be addressed. Like all partners, we wanted to see improved standards of support and training, greater consistency and better outcomes for children.

COSLA did not support structural change and the establishment of a new national body Children’s Hearings Scotland(CHS) (see COSLA’s written submission to the Education, Lifelong Learning and Culture Committee’s call for evidence in 2010.¹) The COSLA view was that the money diverted to facilitate the bureaucracy of Children’s Hearings Scotland could and should be directly invested in better support for panel members.

However a new national body was created and over the past few years we have worked closely with the previous and current National Convener of CHS. COSLA do have some

¹ <http://archive.scottish.parliament.uk/s3/committees/ellc/documents/CHB36-COSLA.pdf>

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concerns regarding the financial implications of some of the powers the National Convener has in the following areas:

Area Support Teams

Prior to the establishment of CHS there were 30 Children's Panel Advisory Committees (CPAC's) across Scotland which provided support to Children's Panels including recruitment, training and organising rotas for panel members . Local authorities provided financial support to CPAC's and clerking services, although CPAC's were independent bodies. The Children's Hearings (Scotland) Act 2011 (the 2011 Act) saw the replacement of CPAC's with Areas Support Teams (ASTs).

Originally the Bill had specified that the location, number and configuration of ASTs was to be at the National Convener of CHS discretion and that they only had to consult with local authorities on their establishment. However following successful lobbying by COSLA and others the final 2011 Act was amended so that the National Convener had to reach agreement with local authorities over the makeup of AST's. COSLA felt this safeguard was essential to stop local authorities being forced into unsuitable AST arrangements.

The establishment of the current 22 ASTs did take longer than had been anticipated by the original Bill Team As a new organisation there were a number of competing priorities for CHS to balance and discussion and development with individual Local Authorities was a protracted process. The National Convener originally proposed a smaller number of ASTs, however agreement was eventually reached on the 22 ASTs which are currently in place.

Some ASTs provide support to panel members in just one local authority area whilst others cover a number of local authorities, in such cases the local authorities pool resources to support the AST volunteers. The various operating models appear to be operating successfully in responding to local needs, though we are aware that recruitment and retention of volunteer AST members can be challenging in some areas of the country.

Subsequently the Children and Young People's (Scotland) Act 2014 removed the need for the National Convener to reach agreement with local authorities on the configuration and number of ASTs. "Section 69(2)(a) provides that the National Convener must keep the designation of areas under paragraph 12(1) under review and that the National Convener may revoke or make a new designation at any time. The National Convener will be required to ensure, when revoking or making new designations, that each local authority will fall within a designated area under paragraph 12(1). Where a designation is revoked, this will have the effect of dissolving the area support team that was established as a consequence of the designation." This was something COSLA opposed strongly.

The 2014 Act gave the National Convener powers to specify the level of support local authorities need to provide to ASTs, (support typically meaning staff, property and other services – all of which have financial implications). COSLA strongly opposed these new powers, which see the non-elected head of a Quango having the ability to direct local authority budgets without limit of cost and any reference to the authorities other duties or resource constraints. See our supplementary evidence to the Education and Culture Committee ² where we welcomed the Government's guarantee of full funding for all aspects of the 2014 Act and Ministers commitment to monitor the costs of implementation, but noted that this has to be a

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[http://www.parliament.scot/S4_EducationandCultureCommittee/Children%20and%20Young%20People%20\(Scotland\)%20Bill/COSLA_supplementary.pdf](http://www.parliament.scot/S4_EducationandCultureCommittee/Children%20and%20Young%20People%20(Scotland)%20Bill/COSLA_supplementary.pdf)

real process which is honoured by any future administration. We noted that there is still a risk for local government if the financial assumptions are proven to be inaccurate.

COSLA has a good working relationship with the current National Convener and have recently held discussions on the new powers he has and his plans on whether he will use these. We are encouraged that the National Convener has indicated that he starts from the premise that any changes to the makeup and support to be provided by local authorities to ASTs should ideally be reached by agreement rather than imposition. However, the concern remains that where the potential to use these powers exists, they could be used without the agreement of local authorities which in turn could have a significant and detrimental impact. If that turns out to be the case COSLA will seek to remind the Government on their commitment to fully fund any costs resulting from the 2014 Act.

Feedback Loop

The Feedback Loop was introduced into the Bill by the Scottish Government in response to a concern expressed by COSLA about the need to improve the information flow between panel members and local authority social work staff. COSLA recognised that issues existed in some parts of the country around the capacity for social work to always meet the needs of children's hearings in a timely manner. (see COSLA's written submission to the Education, Lifelong Learning and Culture Committee's call for evidence in 2010.³)

However, the Feedback Loop in its current form has become an arbitrary exercise and one which we question the value of. It is not the useful communication tool which COSLA had argued for, but instead has become a one way information gathering exercise: from the CSOs, to the National Convener to Parliament. It has also become clear that the process to develop the report places unanticipated demands on local authorities but without clear benefits to the authority or – importantly – to outcomes for children and young people.

COSLA worked closely with CHS to agree what information it would be possible to gather and hosted meetings between CHS and social work colleagues to discuss this. It soon became clear that providing the information on the implementation of CSO's would not be a simple matter. The format in which information was recorded by local authorities had not been designed for providing information nationally. In a number of local authorities this information was kept in local social work office files. Providing information for the Feedback Loop from these files would involve staff having to check all files. Social work colleagues confirmed to CHS that changing reporting processes, so that specific information on CSO's could be reported nationally would involve computer software rewrites which would take time to implement and be expensive. The Financial Memorandum which supported the Bill did not identify any additional costs for local authorities to provide information for the Feedback Loop⁴ and there is no continuing mechanism to identify and address these costs.

There are also potential issues with what the data is interpreted to mean. For example, it should be noted that CSO's may not be implemented if circumstances relating to individual children and young people change. In such circumstances it may not be appropriate to enforce panel decisions and social workers have the ability to make such decisions in the best interest of the children and young people. This level of detail around mitigation is, however, not necessarily reflected in statistics.

³ <http://archive.scottish.parliament.uk/s3/committees/ellc/documents/CHB36-COSLA.pdf>

⁴ <http://archive.scottish.parliament.uk/s3/bills/41-ChildrensHearing/b41s3-introd-en.pdf>

Consequently the first Feedback Loop report has been significantly delayed and contains limited information only on CSO's which resulted in Secure Care authorisations. The National Convener will require more information in subsequent reports, which as noted above local authorities will incur costs to provide.

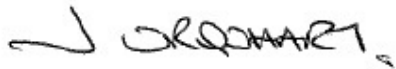
Conclusion

COSLA Officers work well in partnership with Boyd McAdam, the current National Convener of Children's Hearings Scotland, and welcome his collaborative approach. The national standards and national training developed and delivered by CHS are contributing to greater consistency.

Notwithstanding this COSLA have ongoing concerns that the powers conferred on the National Convener by the Scottish Parliament to collect information for the Feedback Loop, to determine the makeup of AST's and to direct the support to be provided to AST's will result in additional costs being imposed on local authorities.

Thank you for the opportunity to provide a response and if you have any further queries please do not hesitate to contact COSLA.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'J. URQUHART'.

John Urquhart
Policy Officer