

‘Hearings For Children’ Scottish Government Response Policy Responses

Accept

Recommendation 1.1: All children and families must be able to access the help and support that they need, in the way that they need it, in line with the conclusions of the Independent Care Review.

Status	Accept
	1

Response

The Scottish Government is committed to investing £500m in Whole Family Wellbeing to improve holistic family support so that families get the right support, in the right way and at the right time. £50m has been allocated for the Whole Family Wellbeing programme in 2023-24. The funding will focus on the system changes required to shift investment towards early intervention and prevention activities, to ensure families can access support before they reach crisis point.

Recommendation 1.2: There must be concerted and coordinated leadership, oversight, investment, and prioritisation of the provision of appropriate, high quality, accessible, early help and support for children and their families, and realising the commitment to 5% preventative spend. A national plan must set out how this will happen in Scotland by 2030.

Status	Accept
	1

Response

The Whole Family Wellbeing funding seeks to deliver services that support individual circumstances, and strives to help Scotland to Keep the Promise through supporting families to thrive by reducing the need for more intensive support when things have gone wrong. We are distributing funding through three distinct elements co-produced with stakeholders: i) Providing Direct Support to Children’s Services Planning Partnerships; ii) National Support for Local Delivery; and iii) Taking a cross Scottish Government approach to system change. In continuing our delivery of the Whole Family Wellbeing programme, to support the development and delivery of sustainable, preventative holistic family support across Children’s Services Planning Partnerships, building on Children’s Services Planning duties, and we will publish further detail on our longer-term investment approach in due course.

Recommendation 1.3: Multi-agency partnerships must be supported to be clear and ambitious about developing accessible routes to holistic whole family support and how these are central to the development and delivery of each area’s Children’s Services Plan. This includes universal access to holistic, whole family support and more intensive support for families that need it.

Status	Accept
	1

Response

As part of our National Support for Local Delivery element of Whole Family Wellbeing funding, a package of activity is aimed at supporting local transformation. This includes: our collaborative learning partnerships with three Children’s Services Planning Partnerships; a dedicated national support team to accelerate plans and provide local learning that can be shared nationally; a Learning into Action Network and a Knowledge Hub to share learning, facilitate peer support and collaboration; an independent evaluation of the programme’s implementation and impacts, and research to support continuous improvement.

Recommendation 1.4: Work should be done to review the impact and effectiveness of help and support for families working voluntarily alongside local authorities, to ensure that there is not a sense of a two- tier system of help and support for children who are on legal orders and children who are not, and to improve outcomes for children and families and uphold their right to help and support.

Status	Accept
	1

Response

The fundamental principle of Getting it right for every child (GIRFEC) is to provide all children, young people and their families with the right support at the right time. Child protection processes apply at the acute, urgent end of a range of services which include prevention and early intervention. The GIRFEC principles and approach should be applied consistently across the range of services, regardless of whether a child or young person is subject to legal orders. Children and young people who are subject to care and/or child protection processes may already be known to services and may already have a Child’s Plan in place. Child protection processes should build on existing knowledge, on strengths in planning and partnerships to reduce the risk of harm, and should be aimed at meeting the child’s wellbeing needs.

Our response to this recommendation cross-refers to the response to recommendation 7.5 around undertaking a national review of potentially multiple ongoing child protection, care and support processes and meetings, including review meetings. This would be to identify where unnecessary duplication takes place and to minimise that for the benefit of children and families.

Recommendation 1.5: The challenges relating to the recruitment, retention, and resourcing of child and family social work teams must be urgently resolved. This requires sustained investment, developing practice, and implementing the specific conclusion of the Independent Care Review around supporting the workforce so that

they alone do not feel the burden and responsibility of statutory involvement in children and families' lives.

Status	Accept
	1

Response

We acknowledge the immense and highly skilled contribution made by social workers to support individuals and families across Scotland, and are aware of current workforce and workload pressures. The establishment of a National Social Work Agency will support and invest in the profession by providing national leadership, raising the status of social work as a profession and considering the future needs of the workforce. We also recognise that action needs to be taken now to address the current pressures in the profession and system - that is why we are already working to support and invest in the workforce. In conjunction with COSLA, we have established a joint working group to address immediate issues affecting the workforce, and are working collaboratively with stakeholders to ensure plans for improvement are informed by the voices of social work and other key partners and stakeholders.

Recommendation 1.6: There must be serious, sustained attention on maintaining and sustaining the children and families' workforce to ensure that they are able to undertake the complex work that is required of them in a way that is characterised by a rights-respecting, trauma-informed approach. This includes the third sector workforce.

Status	Accept
	1

Response

Many aspects of this recommendation are in line with current policy – for example, to deliver a trauma-informed training programme for the workforce supporting children, young people, and families. Activity is already underway in relation to many aspects of this recommendation, but in acknowledging the need for further work, we will recalibrate that current or planned activity in alignment with the HfC report.

Recommendation 1.8: The implementation of these recommendations must be linked to the national work to reduce poverty and to meet the child poverty targets.

Status	Accept
	1

Response

Best Start, Bright Futures', our second tackling child poverty delivery plan, sets out how we will work together to deliver on Scotland's national mission to tackle child

poverty. Our work to tackle child poverty is firmly aligned with our commitment to the outcomes of the Independent Care Review. Successfully tackling child poverty requires our current approach to evolve, to focus on outcomes rather than inputs, and to deliver wide ranging, evidence-informed action across Scotland. Best Start, Bright Futures sets out how we will deliver differently, working in partnership to provide families with the right support at the right time, providing holistic and person-centred support for families. No one action in isolation can make the change needed. It is the cumulative impact of action across sectors, by all partners, in all parts of Scotland, which will make the difference for children and families.

To support the delivery of ‘Best Start, Bright Futures’ we have put in place a cross-government Programme to oversee progress on delivery. The Tackling the Child Poverty Programme Board includes external members from across local government, the third sector and academia. They bring their skill, expertise and challenge to our work, and help us to avoid silo working to achieve shared outcomes. This would include making links with relevant elements of hearings system redesign.

Recommendation 2.2: There must be a coordinated approach to establishing an appropriate, considered, and non-judgmental language of care in Scotland. A clear plan must be developed for identifying and implementing systemic policy, practice and legislative changes required to ensure consistent use of this language across all 32 local authorities.

Status	Accept
	1

Response

This builds on efforts being advanced by multi-agency partners under the Children’s Hearings Improvement Partnership. The Scottish Government fully endorses the recommendation’s intent. Delivery responsibility will be assigned to the Children’s Hearings Redesign Board to be progressed by the statutory bodies in 2024-25. This will further link, where applicable, to the planned consultation on changes that will need primary legislative reform – to be taken forward in early 2024.

Recommendation 2.4: There must be national oversight by the Scottish Government of the resourcing and provision of training in the impact of trauma, childhood development, neurodiversity and children’s rights for everyone involved in the children’s hearings system

Status	Accept
	1

Response

The UNCRC Bill (which has now been passed by the Scottish Parliament and awaits Royal Assent) will place a duty on those working under the Children’s Hearings (Scotland) Act 2011 to act compatibly with the UNCRC. As such, system professionals will be required to comply with the UNCRC requirements once the

UNCRC Bill becomes law and is commenced. So, training for professionals working in the children’s hearings system must also cover UNCRC responsibilities.

The National Trauma Transformation Programme (NTTP) recently announced the publication of the new Roadmap For Creating Trauma-Informed And Responsive Change: Guidance For Organisations, Systems And Workforces In Scotland.

This resource is designed to be used flexibly and independently by services and organisations across all sectors of the workforce in Scotland, to help identify and reflect on progress, strengths and opportunities for embedding a trauma-informed and responsive approach across policy and practice.

There is already an extensive range of training for volunteers and professionals involved in the children’s hearings system. Where appropriate, the Scottish Government will continue to work with organisations to ensure that the aspirations of this recommendation can be met.

Recommendation 2.5: There must be a clear understanding at all levels of a redesigned children’s hearings system about what children and families’ rights are and how they should be accessed and upheld.

Status	Accept
	1

Response

The Scottish Government supports a renewed focus on building children’s and families’ understanding and confidence about the system overall, and what they can expect from those working within it. Work to progress this recommendation, alongside a number of others, will look to ensure that information on the children’s hearings system is accessible in one location for children, families and professionals. A simplified information bank, with links to the offers from, and highlighting the responsibilities of, the relevant professions and disciplines, will be developed under the auspices of the new Children’s Hearings Redesign Board which will begin its work in early 2024.

Recommendation 2.7: There must be a review of the current, respective functions of CHS and SCRA to ensure that the redesigned system operates effectively and efficiently for children and families and adequately supports and resources the discrete legal functions of the National Convener and Principal Reporter. This must be overseen by the Scottish Government as part of the broader work to implement the recommendations in this report and to keep the promise by 2030.

Status	Accept
	1

Response

A review is currently underway – initial discussions have begun with both the National Convener (CHS) and Principal Reporter (SCRA), and we would expect those to conclude in the first quarter of 2024. The outcomes of that review would also be reflected in a primary legislation consultation. Aspects of this recommendation also sit under the Practice and Procedures workstream which contains a number of recommendations. Those can be progressed in the first instance by the principal officers of the statutory bodies, and will be overseen by the Children’s Hearings Redesign Board across 2024.

Recommendation 3.1: Updated national referral guidance must be issued to those working alongside children and families, which encompasses the core aims of the redesign. This must include the particular needs of babies and infants and their developmental milestones and should be clear that referral processes should be rights-based and underpinned by the key principles of proportionality, consistency, and timeliness.

Status	Accept
	1

Response

Work to progress this recommendation, alongside a number of others, will look to ensure that information, and explanations, on the children’s hearings system are accessible for all children, families and professionals. They should be expressed in an appropriate way to meet the distinct and additional needs of babies and infants. Updated national referral guidance will be developed following public consultation on those aspects of the redesign that require legislation.

Recommendation 3.2: The workforce must be supported to work relationally alongside children and families, to ask their views and listen and act on the responses they receive about the help and support that would make the most difference in their lives and to use their judgement about whether a referral to the children’s hearings system is appropriate route for a particular child and their family.

Status	Accept
	1

Response

The Scottish Government agrees that the workforce must be appropriately trained and supported to use rights respecting, trauma-informed, relationship-based practice. Building on the GIRFEC, values and national practice model, and the principles of holistic whole family support, the child and their family need to be at the heart of the process to ensure their views are included and that every opportunity is afforded to them to access the services they need, without referral to the Principal Reporter for potential compulsion.

This support will enable a comprehensive and analysed assessment of wellbeing to take place, that will ultimately inform the development of an appropriate Child's Plan to provide support to the child or young person, and family, where that is needed.

Recommendation 3.4: All organisations within the children's hearings system must ensure that they have adequate audit arrangements in place to review and openly report on the quality, consistency and impact of their decision-making and outcomes for children.

Status	Accept
	1

Response

This recommendation will be progressed by the Children's Hearings Redesign Board when it begins its work in early 2024. Baselining activity will be required to assess the adequacy and suitability of existing practice supervision, quality assurance and audit arrangements within organisations and agencies. If those current arrangements need to be augmented or reinforced, recommendations will be taken to the relevant decision makers in the course of 2024.

Recommendation 3.5: The role of the Reporter prior to a referral being made to the children's hearings system must be enhanced. The engagement of the Reporter must routinely be considered during other child protection and care and support meetings and discussions, and there must be a consistent approach to partnership working between agencies and the children's hearings system.

Status	Accept
	1

Response

This recommendation is closely tied to the recommendation in Chapter 7 of the report that calls for a review of processes and meetings that involve children and families. The outcomes of any review undertaken in relation to the below recommendation are likely to inform the approach taken to recommendation 3.5: There must be a national review of multiple ongoing child protection, care and support processes and meetings, including review meetings, to identify where unnecessary duplication takes place, where drift and delay is introduced, and where information could and should be better shared collaboratively with the Panel or Reporter to better inform decision-making.

We note that the Reporter currently has no case-specific role prior to a referral. Rather, the Reporter has a corporate/collegiate role to advise on specific potential referrals. The Reporter has a clear interest in making sure that children get the help they need, but current legislation and guidance provides for a clear delineation between the referring party and the subsequent independent role of the Reporter – essential to preserving a rights-respecting process. Any move to enhance or expand the role of the Reporter prior to referral must not complicate matters, or cause

confusion or duplication between the roles of the various professionals involved in supporting the child. We will consult on the issues attending any proposed change to the scope of the Reporter role.

Recommendation 3.7: Specialist training must be provided to decision makers within the children’s hearings system and those working as part of the children’s justice system or directly alongside children in conflict with the law so that they know and help children access and understand their rights and the way in which the children’s hearings system interacts with the criminal justice system. This includes for Reporters, Chairs, Panel Members, police officers, social workers (including community justice social workers) and lawyers as a minimum—some of this has already started and must continue.

Status	Accept
	1

Response

Engagement with partners following publication of ‘Hearings for Children’ suggests that a wide range of activity that would deliver against this recommendation is already in place or is planned.

In addition, the UNCRC Bill (which has now been passed by the Scottish Parliament and awaits Royal Assent) will place a duty on those working under the Children’s Hearings (Scotland) Act 2011 to act compatibly with the UNCRC. If Parliament are content, and the reconsidered UNCRC Bill becomes law, system professionals will be required to comply with the UNCRC requirements. So, training for professionals, practitioners and volunteers working in the children’s hearings system must cover any duties that they may bear under UNCRC. This will include any adaptations to the intersection between the children’s hearings system and the criminal justice system – those interactions will continue to move in the coming years, contingent on the introduction of Care and Justice Bill reforms, Age of Criminal Responsibility statutory review and possible reforms, the introduction of Disclosure (S) Act 2020 provisions.

Recommendation 3.9: All children and young people up to age 18 who are convicted at Court should have the opportunity of either a remit to the children’s hearing or a request for the advice of the children’s hearing by the Court (an Advice Hearing), in accordance with the terms of the Children (Care and Justice) (Scotland) Bill.

Status	Accept
	1

Response

Draft legislative provision has already been made for this to be possible via section 15 of the Children (Care and Justice) (Scotland) Bill, subject to its approval by Parliament in due course. Its remittal framework aims to maximise the use of the welfare-based children’s hearings system, even in cases where children are being

prosecuted in court. The provisions under section 15 bring consistency for children by removing the differentiated arrangements for children dependent on whether they are subject to compulsory measures or not, as well as allowing the court to remit for disposal without the need for advice, where considered appropriate. The only exception will be where the sentence is fixed in law, where the court will continue to have the power to dispose of the case itself.

Recommendation 4.1: There must be changes to the way that advocacy is offered:

4.1.1 If a child does not already have an independent advocacy worker, there should be an immediate offer of advocacy at the point of referral to the Reporter for all children. This must be fully explained to children in ways that they understand so that they are aware of what an advocacy worker is and the role that they can play.

4.1.2 The Promise Scotland’s work to develop a lifelong advocacy service for care experienced children and adults should include the extension of advocacy support beyond the entry point to the children’s hearings system to children working voluntarily alongside local authorities and to parents and carers too.

4.1.3 The offer of advocacy should be repeated to children and to their families at different stages of the process.

Status	Accept
	1

Response

The Scottish Government agrees, noting that repeated offers of advocacy support are already enshrined in the practice model governing the current statutory children’s hearings advocacy provision that has operated since November 2020.

Recommendation 4.2: Children should be fully informed of their right to legal representation and there should be an exploration and understanding of whether the current mechanisms for them to access legal aid and their right to legal support is sufficient.

Status	Accept
	1

Response

The Scottish Government agrees with this recommendation, which will be considered under the Practice and Procedures workstream. That contains a number of recommendations which can be progressed in the first instance by the statutory bodies and will be overseen by the Children’s Hearings Redesign Board once it begins work in early 2024. We anticipate that this will entail significant further work with Social Work, Local Authorities, the Scottish Legal Aid Board (SLAB) and the wider legal profession’s representatives, including the Law Society of Scotland.

Recommendation 7.3: CHS and SCRA must be fully supported and resourced to adapt and flex to the changes required by the redesign.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board. This will also be considered through multi-year financial strategy setting, resource planning and annual budget processes as they apply to the current grant-in-aid arrangements for the core public bodies CHS and SCRA.

Recommendation 7.4: The children's hearing must be clearly seen as the principal legal decision-making forum for children after grounds are established. Children and families must understand the role and added value of the children’s hearings system and how it correlates to the other inter-related processes and meetings in their lives.

Status	Accept
	1

Response

The HSWG report states that:

In a redesigned children’s hearings system it must be made clear to children and families, and to the workforce what the role and added value of the children’s hearings system is. This will ensure that there is a concrete understanding of how it correlates with, and interlinks to other important, simultaneous child protection, care and support, permanence, and adoption processes that may be woven into and across children and family’s lives. Decision makers in the children’s hearings system must be cognisant of what else is happening and what has happened previously in the lives of children and families.

We agree with this recommendation provided that improved clarity about the role, relevance and significance of other key processes can be articulated, including those that address child protection, care and support, permanence and adoption.

This recommendation is closely linked to recommendation 7.5 and we believe that a proportionate review of these processes and others across 2024 and 2025 can look to identify and address many of the issues raised across the report.

Our National Child Protection Guidance sets out the links between GIRFEC national practice model, child protection processes and children’s hearings, as well as detailing the role of the Reporter. As part of our implementation of the Guidance, a resource for children, young people and families is being developed to offer an accessible source of information.

Recommendation 7.5: There must be a national review of multiple ongoing child protection, care and support processes and meetings, including review meetings, to identify where unnecessary duplication takes place, where drift and delay is introduced, and where information could and should be better shared collaboratively with the Panel or Reporter to better inform decision-making.

Status	Accept
	1

Response

This recommendation is tied to many others across the report that describe the relationship between the various assessment and support-planning processes children and families can experience, and the roles of the different professionals involved in them. We believe that there is merit in undertaking a review that can aid understanding and facilitate improvement. However, it is important that any review is focused and proportionate, seeks to add value, and does not place any unnecessary burden on professionals at the heart of critical services. We have already begun preparatory work to support the process of a review and will progress this with input from the Children’s Hearings Redesign Board and other key partners in early 2024.

Recommendation 7.6: The discretion of the Principal Reporter to decide whether a Reporter should attend a children’s hearing should be retained. Reporters must only attend a Hearing when they have a meaningful contribution to make and, in their view, it is in the best interests of children and their families.

Status	Accept
	1

Response

Reporters consistently make a meaningful contribution at hearings by acting as an independent observer ensuring fair process and by keeping a record of proceedings. SCRA’s Practice Direction 11 gives clear guidance about the role and practice expectations of the Reporter at hearings and pre-hearing panels. The Reporter also has an important role at appeals of decisions of children’s hearings, which includes assisting the court to make a well-informed decision in the best interests of the child. Prior attendance at the children’s hearing facilitates the Reporter’s carrying out that element of their role effectively.

Recommendation 7.7: Clear measures should be in place to explain the role of the Reporter in a hearing in a way that children and families understand.

Status	Accept
	1

Response

The Scottish Government agrees. Work to progress this recommendation, alongside a number of others, will look to ensure that information on the children's hearings system is accessible for children, families and professionals. SCRA have current and planned practice in this area. We understand that they will bring that to the Children's Hearings Redesign Board in 2024 to ensure wider system visibility and alignment for the benefit of children and families. Should future system redesign affect the role of the Reporter following primary legislation, that awareness-raising and explanatory work will be revisited and repeated to reflect the changes.

Recommendation 8.1: There must be a more robust preparation phase in advance of a children's hearing, which must involve children and their families.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board which will begin its work in early 2024.

Recommendation 8.3: Local authorities, CHS and SCRA must work together to consider how best to plan and prepare all children and families for optimal support, understanding of, and participation in their children's hearing.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board which will begin its work in early 2024.

Recommendation 8.7: The feasibility and potential positive and negative consequences of pre-hearing planning meetings must be explored.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board which will begin its work in early 2024.

Recommendation 8.8: In a redesigned children’s hearings system there must be a separation between procedural decisions relating to the hearing itself and the decisions made by the hearing. There should be an assessment to understand which procedural decisions a Chair can take without the need to convene a full Panel in advance of a hearing. This should include scrutiny of whether anything needs to change in legislation or procedural rules to better facilitate decision-making and eliminate structural drift and delay in the system.

Status	Accept
	1

Response

We will undertake the assessment described in this recommendation in concert with CHS and consult if necessary in 2024, both to explore the issues with a wider audience, including the care community and to seek views on any legislative changes that may be required.

Recommendation 8.10: The rights of brothers and sisters to participate and be part of their siblings’ hearing must be upheld.

Status	Accept
	1

Response

The Scottish Government is clear that, where appropriate, all siblings should get a proper opportunity to participate in and be part of their sibling’s hearing. The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Amendment Rules 2021 came into force in July 2021 affording siblings this opportunity in the appropriate circumstances.

Work is already underway to support full implementation of [The Looked After Children \(Scotland\) Regulations 2009](#), as amended by the [Looked After Children \(Scotland\) Amendment Regulations 2021](#) and ‘Staying Together and Connected’ National Practice Guidance that will further support the recommendation to uphold the rights of brothers and sisters to participate and be part of their siblings’ hearings. That work is progressing independent of the HfC report, but we have ensured it is aligned.

Recommendation 8.11: For people who might find it difficult to physically attend a hearing due to emotional or practical concerns there must be ways for information and views to be shared in advance, either through a written report or a recording.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board once it begins its work in early 2024.

Recommendation 8.12: The existing obligation for a child to attend must be removed and replaced with a presumption that a child will attend their Hearing, with some limitations. There must be no presumption that babies and infants will attend their Hearing.

Status	Accept
	1

Response

The Scottish Government agrees that there should be no presumption that babies and infants attend their Hearing. While there are substantial considerations regarding the capacity and participation of older children and young people of various ages and stages of maturity and capacity, the choice of the child on how they participate must be a significant factor in a redesigned system. Enabling children to have a clear choice, unencumbered by administrative barriers, is in keeping with broader trauma-informed practice, and we are supportive of this in principle. We will develop options for consultation on how the legislation and procedural rules of a redesigned system could enable high quality participation for children and young people, ensuring their preferences are respected and their rights are upheld.

Recommendation 8.13: The existing range of options available to help facilitate children’s attendance within the children’s hearings system should remain in place and expand in accordance with emerging research, evidence and shared learning from other tribunals and ongoing improvement work.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board. We will ask them to focus on domestic and international comparators - to ensure that the best and most appropriate attendance, engagement and participation supports are put in place for a redesigned children’s hearings system.

Recommendation 8.14: If a child does not wish to attend their hearing, then there must be clear mechanisms in place to help the child understand what was discussed at the hearing and what decisions were made.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board.

Recommendation 8.17: All reports must be shared with plenty of time for Panel Members to review them.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board.

Recommendation 8.19: A child and 'relevant person' must be given appropriate time to read and understand the information that they receive.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board under the current system. If any changes need to be made to existing regulations or procedural rules, the Scottish Government will engage on those, following primary legislation consultation.

Recommendation 9.2: Children and their families must be helped to understand their choices and rights relating to their participation in their hearing.

Status	Accept
	1

Response

This recommendation, alongside a number of others, looks to ensure that information on the children's hearings system is accessible in one location for children, families and professionals.

A range of publicity, communication and engagement materials have been developed for children and their families to help them understand their rights and to support their choices about how and when they can participate in their hearing – we will bring that together under the Information workstream of the Redesign Board. There is an ongoing programme of communications and engagement to ensure children and their families are made aware of their rights in preparing to attend

hearings. Maintaining the child’s right to attend their hearing, and avoiding inappropriate influencing or practice that would have the effect of discouraging attendance, are emphasised to children and their families by advocacy workers. Children and families are made aware at every contact with prospective advocacy providers that advocacy support is not a one-time offer.

Recommendation 9.4: The provisions in s.3 of the Children (Scotland) Act 2020 with respect to a child being given an opportunity to express their views in a manner they prefer or a manner suitable, must be commenced.

Status	Accept
	1

Response

The Scottish Government agrees, but in keeping with the HfC report’s observations on sequencing and capacity, we will consider further when is the optimal time to commence these provisions taking into account the wider demands that a range of other reforms are bringing to the workforce supporting children, young people and families workforce.

Recommendation 10.3: Social workers’ training must cover the purpose, processes, and structure of the children’s hearings system in adequate detail and must support them in developing the reports that decision makers will need to inform their decision-making.

Status	Accept
	1

Response

We intend to coordinate the development of an Advanced Practice Framework (APF) which sets out the structures that support social workers to progress through different career phases. The APF will describe a cohesive and supportive series of academic, learning and developmental and work based opportunities to support the workforce.

In spring 2023 officials sought the views of social work students, social workers and social work leaders. Their feedback will inform the creation of a framework which will:

- Contain core, practice specific and mandatory elements
- Respond to changing policy and practice developments
- Reflect the important role social workers play in multi-disciplinary teams

Recommendation 10.4: Social workers who attend Hearings must have an in-depth understanding of the lives of children and families to whom the Hearing relates.

Status	Accept
	1

Response

The GIRFEC national practice model is part of professional practice for all professionals who work with children, young people and their families in Scotland. It was refreshed in 2022 and supports social workers to build an in depth understanding of the lives of children and families attending children’s hearings. Professionals who work with children, young people, parents, carers and families, including social workers, are aware of the GIRFEC national practice model which provides values, principles and a universal assessment model. This practice model provides information to inform a clear plan outlining what help is to be provided, by who and by when. At all assessment stages the child is at the heart of the process, their views are listened to, and their rights are respected.

Recommendation 11.12: Orders must have a high degree of specificity to ensure safe, loving, mutually supportive relationships are upheld and protected.

Status	Accept
	1

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board.

Recommendation 11.14: There must be clear processes for a Hearing to inquire about what is working and what is not working with respect to contact arrangements as part of regular review processes.

Status	Accept
	1

Response

The Scottish Government agrees that it makes sense for the Hearing to be able to hear about the successes and challenges of contact arrangements and experiences. An agreed process to raise any concerns would also be beneficial.

Though not currently covered in the current approach to joint inspections, the Redesign Board and relevant functions, potentially including the Care Inspectorate, would want to think through the adequacy of sources of data and evidence and the extent to which they could use information from CHS and SCRA. In addition, the Redesign Board will wish to consider recommendations and any relevant output from regulation of contact centres.

Recommendation 11.16: If families are not engaging in the support that is available, the tribunal must inquire about the circumstances surrounding this and seek to understand what alternative provision may be more appropriate.

Status	Accept
	1

Response

The Scottish Government agrees. The National Convener will wish to assist the tribunal to understand reasons for non-engagement with compulsory measures, and implementation authorities will wish to be part of a focused, timely dialogue about whether measures in orders can be safely adapted or reconfigured. This recommendation will sit under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board when it begins its work in early 2024.

Recommendation 11.19:

11.19.1 There must be sufficient resources and multi- agency planning and collaboration with the Children’s Hearing to ensure the additional, specific needs, of all 16 and 17 year olds are met.

11.19.2 The tribunal must have oversight of the transition plans for children who are nearing their 18th birthday so that there is no ‘cliff edge’ in terms of help and support when they become an adult.

Status	Accept
	1

Response

The Scottish Government agrees that multiagency planning and resourcing considerations are key to the successful implementation of any statutory provision. Legislation cannot deliver its full potential benefits in isolation - policy and delivery mechanisms are crucial. To ensure co-design of those plans and an early consideration of issues with partners, the multi-disciplinary Children (Care and Justice) (Scotland) Bill Implementation Group was established in summer 2023. While the reforms proposed in this Bill mainly relate to under 18s, some extend to young adults. For example:

- the ability of children who have been remanded or sentenced and placed in secure care before their 18th birthday to remain to a maximum age of 19;
- the ability for the hearings system to consider whether supervision or guidance will be needed by the child after attaining the age of 18 years when terminating a child’s order;
- and the possibility for more children to have aftercare entitlements following referral to the children’s hearings system or having been placed in secure care via a justice route.

Scotland continues to develop a distinct approach to young people aged 18-25 years of age. This includes the Scottish Sentencing Council’s Guidelines; extension of the

Whole System Approach under the Youth Justice Vision; and youth court pilots, all of which will continue to be monitored and provide valuable learning.

Recommendation 11.23: The right to appeal must be accessible and understandable to children and families.

To ensure feedback loops play a role in the continuous improvement of Hearings, Sheriffs should request a copy of appeal decisions be included in Hearing papers.

Status	Accept
	1

Response

The first part of this recommendation can be addressed through an information workstream that we will progress in concert with the Children’s Hearings Redesign Board. The second element is mainly for the tribunal element of the system. In considering how this could be implemented, we will explore if it is possible for appeal decisions to be automatically provided in children’s hearings papers to be considered in subsequent proceedings for each individual child.

Recommendation 12.1: The application of compulsion should remain with a child, but there must be a strengthened understanding of the importance of their family and the support they require as part of the link between the order and the Child’s Plan.

Status	Accept
	1

Response

The Scottish Government agrees that the application of compulsion should remain with the child for the reasons outlined in the report. In line with our response to recommendations 2.6.3 and 11.15, we suggest exploring how we can place a stronger emphasis on the use of the My World Triangle and National Practice Model within the work of the Reporter and the hearing – to encourage a whole-family approach to supporting a child. Those are principally training and practice issues for the Principal Reporter and National Convener. For clarity, we note that the Child’s Plan’ referred to in this recommendation is the statutory Child’s Plan for a Looked After Child.

Recommendation 12.7: A Review Hearing should be seen as an opportunity for a full and frank discussion alongside the child and family with the benefit of an independent Chair, and not a place for adversarial proceedings. They should be characterised by curiosity into what has gone wrong and what is needed to change. In an inquisitorial system, the Review Hearing should be the place for an open and honest inquiry into what progress has been made, where the strengths of the family lie, and what challenges there might have been in meeting the terms of the order.

Status	Accept
	1

Response

The Scottish Government agrees. We note that a chairing member can use the powers in sections 146 and 147 of the 2011 Act to direct the National Convener to give notice to the implementation authority to take remedial action, failing which they may apply for an enforcement order. The focus and current use of this mechanism can be explored further during the planned 2024 consultation. Review hearings can be strengthened through improved practice, learning and guidance from the National Convener.

Accept with conditions

Recommendation 2.1: An overarching principle in primary legislation or procedural rules and a shared set of national standards for the workforce should be made that explicitly describes the children’s hearings system as inquisitorial. This will foster an inquisitorial approach and culture within the children’s hearings system and ensure there is a clear understanding across the entire system of what this means.

Status	Accept with conditions
	2

Response

Realisation of this recommendation will require further consideration and consultation. Potential primary legislation proposals will be consulted on, in early 2024. Any tribunal process must conform to the standards of procedural fairness required by Article 6 (right to a fair trial) and implicit obligations engaged under, for example, Article 8 (right to respect for private and family life) of the European Convention on Human Rights (ECHR).

In the UK, there is no statute which explicitly requires a tribunal to adopt either an adversarial or inquisitorial approach. Some tribunals, by their nature, will be more adversarial in nature, e.g. Employment tribunals, which predominately hear disputes between competing claims. Others, such as mental health or special educational needs tribunals, tend to function more as an inquisitorial hearing as they are tasked with obtaining facts to determining the best outcome for an individual.

It is acknowledged that it may be useful to emphasise the centrality of an inquisitorial approach in a redesigned hearings system. We need to acknowledge that proceedings intrinsic to the hearings system legitimately differ in their approach - both before the children’s hearing itself and the courts (when establishing grounds or acting on referral from a children’s hearing). We would also need to engage with the judiciary in respect of these potential changes, given their role in relation to children’s hearings cases, while mindful of judicial independence.

Recommendation 2.3: Consideration must be given to the specialisation of Sheriffs for involvement in Children’s Hearings Court hearings and other proceedings relating to children and families. Sheriffs must have a clear understanding of trauma, childhood development, neurodiversity and children’s rights and the dynamics of domestic abuse.

Status	Accept with conditions
	2

Response

There are existing powers in sections 34 to 36 of the [Courts Reform \(Scotland\) Act 2014 \(legislation.gov.uk\)](#) for the Lord President and the Sheriffs Principal in relation to judicial specialisation. Given the operational implications, we intend to carefully consider the recommendation in the report on specialisation of sheriffs with the Lord

President’s Private Office (LPPO) and the Scottish Courts and Tribunals Service (SCTS). We note that judicial training is a matter for the Judicial Institute of Scotland, under the independent direction of the Lord President.

Recommendation 3.3: Changes to the statutory referral criteria and to updating and modernising the language of ‘protection, guidance, treatment and control’ in section 60(2) of the 2011 Act must be considered.

Status	Accept with conditions
	1

Response

We are supportive of the broader need to create a common, trauma informed use of language across the children’s hearings system and recognise that legislation should reflect this where possible. We are encouraged that the ‘Language Leaders’ work will assist policymakers in those efforts. Within the text of Chapter 3, the report proposed that the referral criteria be amended to:

- (a) The child or young person is in need of safety, protection, care, guidance or support (Clearly specify which is needed); and
- (b) Compulsory intervention is likely to be needed (With clear rationale why necessary); and
- (c) Only refer if proportionate and timely to do so (With clear rationale why now).

We will consult on whether future primary legislation should reframe referral and compulsion tests. We will seek views on the basis of these proposed criteria, along with other potential approaches, as recommended in the report.

Recommendation 5.5: Interim orders must be in place for a length of time that is in the best interests of the child.

Status	Accept with conditions
	2

Response

The context surrounding this recommendation in Chapter 5 clearly outlines the intention behind this recommendation, and it is a rationale with which the Scottish Government would agree. Certainly, where an action is considered in the best interests of the child, there should be sufficient flexibility to allow this action to be taken for the appropriate period of time. We will consult on this recommendation, and seek views on specific options to appropriately introduce flexibility to interim orders, whilst still ensuring that children’s rights are protected.

Recommendation 5.6: There must be no requirement for young children to agree with the grounds for referral. When all relevant persons agree the grounds and Statement of Facts, this must be sufficient to consider the grounds as agreed, with no need for additional proof proceedings.

Status	Accept with conditions
	2

Response

The Scottish Government supports tailored and pragmatic approaches to young children and their capacity to understand proceedings and to mitigate unnecessary delays to proceedings, whilst ensuring their rights are upheld. We will consult on how to amend existing legislation to give greater flexibility as part of a redesigned grounds process.

Recommendation 7.1: The way in which a consistent Chair engages with children and families must change. The Chair of a redesigned children’s hearings system must be at the centre of the decision making model, maintaining the integrity of an inquisitorial Children’s Hearing. The Chair must work relationally alongside children and their families; assess the information provided to the Panel; uphold the rights of children and their families to be involved in decisions that affect them; preside over a robust and clear decision-making process; work collaboratively alongside others; and have clear oversight of the order and the Child’s Plan.

Status	Accept with conditions
	2

Response

We note the report’s underlying thesis that a chairing member may only be entirely at the centre of a redesigned system if they are available on a full-time basis. Therefore, the comprehensive delivery of this recommendation is reliant on either [6.1.2] being accepted in full, or an alternative model which offers parallel, or broadly similar, availability. Further work is required to fully understand the development of ‘relational’ work, and how this translates to a future rights-respect decision-making model which makes decisions in the best interests of the child, but does not own responsibility for the implementation of decisions. We note that this recommendation refers to the Chair having an overview of the statutory Child’s Plan for a Looked After Child, and have provided further narrative under the response to recommendation 11.1.

Recommendation 8.6: There must be exploration of the feasibility relating to CHS being the organisation responsible for deciding on a date and location of a children’s hearing. This should be part of the aforementioned review of CHS and SCRA’s respective functions.

Status	Accept with conditions
	2

Response

This recommendation is being explored in discussion with the Principal Reporter (SCRA) and National Convener (CHS). Once those review discussions have concluded in the early part of 2024, the agreed activity will sit under the Practice and

Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board. Any potential future reassignment of current statutory roles may also need to be the subject of consultation.

Recommendation 11.3: Home supervision orders must have the same degree of specificity and urgency as orders that require a child to be looked after away from home.

Status	Accept with conditions
	2

Response

We agree that there should be specific legal underpinning where a children’s hearing is authorising particular measures and interventions. The Scottish Government would expect children’s hearings to carefully consider the appropriate measures required on every Compulsory Supervision Order (CSO). Research undertaken by SCRA indicates that one of the principal advantages of home CSOs is their integral part of a hearing’s “minimum intervention” approach, and that they can “provide a statutory means to protect children and young people with the least interference in their family life.”¹ This research also shows that, on average, young people on home CSOs have fewer concerns about their wellbeing than children on CSOs where they are accommodated away from home. This indicates that Hearings are effectively and proportionately reflecting the risk to the child in the type of CSO made.²

Recommendation 11.10: For children for whom there are clear indications that the circumstances that their families face are too challenging for them to remain at home, there should be earlier review by the hearing, in collaboration with the implementing authority, of what a longer-term plan for their care might look like.

Status	Accept with conditions
	2

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board, when it begins its work in early 2024. A thoughtful review is required of potential implications for permanence planning of systematising early reviews of children’s hearings cases.

Recommendation 11.20: There must be a mechanism for the children’s hearing to identify when a child has been subject to compulsory measures of supervision for longer than two years, after which there should be an in-depth review to determine whether this is in the best interests of the child or whether alternative,

¹ [Report-1-Residence-and-contact-conditions.pdf \(scra.gov.uk\)](#), page 4

² [Report-2-Wellbeing-outcomes.pdf \(scra.gov.uk\)](#)

longer-term arrangements should be made. This review should include scrutiny of the efficacy of the Child's Plan.

Status	Accept with conditions
	2

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board.

Children's hearings will review a Child's Plan for a Looked After Child, where one has been put in place, as part of their decision-making process. However, we do not consider that it is appropriate for a children's hearing to have oversight of a Child's Plan devised to meet a wellbeing need on a voluntary basis where children, young people and their parents are free to decline any proposed plan or actions. It is also worth noting that a distinction should always be made between scrutinising the content and efficacy of the Child's Plan for a Looked After Child, and determining if compulsory supervision measures are still required. The role of the Child's Plan is to plan support for the child first and foremost, and the quality of a plan alone does not determine the need for compulsory measures by a children's hearing.

Recommendation 11.21: All children and families and implementation authorities should understand what is expected of them and what needs to happen to 'exit' the children's hearings system.

The concept of a child's 'exit plan' out of the children's hearings system, with clear targets and timescales, should be developed and tested in local areas.

Status	Accept with conditions
	2

Response

In line with the Scottish Government response to recommendation 4.4, we support the concept of an 'exit' plan to connect any compulsory measures with voluntary support for a child or young person. Where a GIRFEC Child's Plan is already in place, an exit plan should be incorporated into this plan to ensure that there is one document which sets out the expectations from the Hearing placed on the child or young person, their family and the implementation authority. This proposal could be explored on a policy rather than legislative basis, in line with the GIRFEC Child's Plan constituting a non-statutory plan.

Recommendation 12.8: The Reporter should be given the discretion to call for a Review Hearing without the need for new grounds to be investigated and established, where appropriate.

Status	Accept with conditions
	2

Response

There is currently no freestanding or self-initiated legal power for the Reporter to require a review hearing. The only option the Reporter has is to bring new grounds if there is a referral (which can be led by the Reporter) or to discuss with the social worker who may then request a review hearing.

SCRA have advised that consultation with their Reporter staff indicated support for this proposal. However, further consideration needs to be given to the value and fairness of this approach compared with a Reporter putting new grounds for referral which set out, and can evidence the basis for, the intervention. Given the requirement for new legislative powers, public consultation will be required to consider the proposal in detail.

Recommendation 13.2: Through the inspection process, the Care Inspectorate should consider how CSOs are supported and prioritised with implementing authority planning processes.

Status	Accept with conditions
	2

Response

The Care Inspectorate (CI) agrees that it has a crucial role to play in ensuring that children and young people receive high quality care and support to meet their needs and enhance their safety and wellbeing. For those on a CSO, how these are implemented and how children experience the service(s) provided by implementation authorities, and how their rights are upheld and promoted all need to be considered. While this is not a current focus of the CI's joint inspection programme which has a focus on children at risk of harm, further work could be done to scope the possibility of inclusion.

Recommendation 13.4: There must be a single point of access for children and families and others who wish to make a complaint about an aspect of the children's hearings system.

Status	Accept with conditions
	2

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children's Hearings Redesign Board. This work will be pursued with the objective of streamlining, simplifying and consolidating the varying current approaches to inviting and responding to complaints and other feedback. Further work is required to assess its necessity, to understand how this might operate in practice and whether any legal, rights or information sharing issues may arise.

Explore or Consult

Recommendation 1.7: There must be consistent high quality provision of Family Group Decision Making and restorative justice services across Scotland.

Status	Explore or Consult
	3

Response

This recommendation aligns with longstanding Scottish Government ambitions to ensure quality restorative justice services are available nationwide. The Children and Young People's Centre for Justice (CYCJ) are currently being funded to develop restorative justice services for children and young people. We will continue to work with CYCJ, partners across the justice system and adults, children and young people who may wish to access restorative justice to develop restorative justice services.

On Family Group Decision Making, Scottish Government officials who attended the Hearings System Working Group as observers noted a diverse range of views across the group about the decision to focus on only one type of evidenced family intervention at the expense of others. Early engagement with practitioners suggests that there are a number of issues that must be carefully considered in relation to Family Group Decision Making and so the Scottish Government will continue to seek advice from practitioners about how best to consider this proposal.

Recommendation 5.2:

5.2.1 A child and families' experience at Court should align as much as possible with the experience at a Hearing in terms of the physical environment and the expected conduct of an inquisitorial approach.

5.2.2 Wherever possible, there should be a consistent Sheriff throughout the process who is specially trained and skilled.

Status	Explore or Consult
	3

Response

The Scottish Courts and Tribunals Service (SCTS) has already taken a number of steps aiming at improving the experience of children involved in court proceedings. The SCTS recognises that attending a court can be a daunting experience, especially for children.

SCTS support justice by providing the people, buildings and services needed to support the judiciary, the courts, devolved tribunals and Office of the Public Guardian. Whilst the nature of this role means that SCTS staff often have limited interaction with children and families at court, work is currently under way to develop trauma informed training for all staff in SCTS. This will allow them to become an informed workforce with a greater understanding on the impact of trauma and what support they can offer those involved in the court process.

We will explore this further with the judiciary as that is ultimately a matter for them.

Recommendation 5.3: The appointment of a Safeguarder must be routinely considered during the process to establish grounds.

Status	Explore or Consult
	3

Response

In principle, this recommendation will be considered but it will be impacted by the development of other recommendations related to grounds hearings and the roles and responsibilities of the Reporter. The issues raised by potential changes to the timing of considering Safeguarder appointments in individual cases will be included as part of the wider public consultation.

Recommendation 5.4: The reasons for structural and systemic delays in establishing grounds must be identified and eliminated. Potential solutions considered must involve the legal profession and must include:

5.4.1 The benefit of a statutory three month set time limit for the determination of grounds, with scope for this to be extended in extreme circumstances, at the discretion of the Sheriff.

5.4.2 Measures to prioritise the developmental needs of infants and babies where systemic delays may impact on their ability to form lasting and consistent relationships.

5.4.3 Understanding whether a flat rate fee structure or changes to legal aid would make a difference in terms of reducing the drawing out the processes.

5.4.4 Sheriffs must use the tools at their disposal for the expeditious determination of disputed grounds for referral.

Status	Explore or Consult
	3

Response

Aspects of these recommendations focus heavily on the interaction between the Reporter and the local authority. As local government and social work were not directly involved in the development of the final HfC recommendations we believe that they would benefit from careful consideration by the Children's Hearings Redesign Board in early 2024. The Scottish Government also wishes to consult further with SCTS, the Scottish Legal Aid Board, the Law Society of Scotland and others in order to progress the consideration of these recommendations.

SCTS have advised that, at present, court hearings are assigned a date for a hearing on evidence within 28 days and in cases where the sheriff considers that the child is too young to understand the grounds of referral a procedural hearing will be fixed within 7 days. There can be many reasons why full consideration of whether referral grounds are established may take longer than 28 days. This could be due to issues such as availability of witnesses and other reasons that may be out with the

court's control. Priority is given to cases involving children to ensure the matter before the court is disposed of as soon as practical. The timelines for when hearings are set is directed by the Child Care and Maintenance Rules.

Recommendation 7.8: Where possible, a Reporter attending a child's hearing should be the same Reporter that children and families will have engaged with as part of the referral processes and establishment of grounds.

Status	Explore or Consult
	3

Response

Whilst this is desirable in principle, we note that delivery would have significant additional resource and capacity implications for SCRA. It is accepted that Reporter continuity does not currently happen in many cases. It will often be Assistant Reporters attending hearings whilst it will have been a Reporter at referral and grounds. This is done for resource reasons. Assistant Reporters are well trained by SCRA and have the appropriate skills to schedule and attend hearings. There can very often be continuity of both Assistant Reporter and Reporter. Many of the benefits of continuity can also be achieved through good record keeping and the successful operation of a scheme of delegation from the Principal Reporter who issues written Practice Directions so that underlying principles and practice are consistently applied in locality offices across Scotland.

Recommendation 8.2: The first information that a child receives about the Hearing must change. After grounds are established, any communication sent to the child and their family relating to the processes and decisions of the hearing should come in the name of the Chair. The mechanisms for this change should be included in the review of CHS and SCRA's functions referred to earlier.

Status	Explore or Consult
	3

Response

The HfC report emphasises the need for the Chair to have a stronger, broader and at some stages pre-eminent, connection with the child. However, it is not clear why this is required or would always be appropriate, given the first contact will necessarily have already been made by the Reporter via their role in considering whether there may be grounds for referral to a children's hearing. There does not appear to be a strong enough evidential basis for this recommended change in approach, beyond a further extrapolation of the proposed augmented role of the Chair. If this proposal were to be accepted, and if advice confirms that these exchanges with the Chair should become part of the record of the hearing, then a formal framework will be required. There is a risk of that rights-respecting formality undermining the well-intentioned and child-centred reasons for this proposal. There is a risk that boundaries and roles are blurred by another 'professional' (should 6.1.2 be accepted) being involved in formal communication about the hearings process. Care

would need to be taken to avoid undermining the independent status or ‘clean hands’ of the subsequent children’s hearing.

Recommendation 8.4: In advance of a hearing taking place, the child or young person and their family should be offered an opportunity to meet the Chair outwith the formal setting of a hearing.

Consideration should be given to the production of a note of the meeting shared, with the permission of the child and their family with everyone who has a right to receive information relating to the children’s hearing by the Chair.

Status	Explore or Consult
	3

Response

Work is being undertaken between SCRA and CHS to understand the feasibility of this proposal, though some current administrative functions would likely have to change or be re-assigned. This proposal may represent a more flexible and proportionate ‘first contact’ than [8.2] by creating a more relaxed, informal atmosphere for the child to meet the Chair of the hearing. This may be achieved without the need for a full-time Chair (and officials understand that some Chairs already may greet the child and other hearing attendees ahead of time wherever appropriate). There is much to recommend the systematisation of such good practice. Clear boundaries would need to be set to ensure there was no discussion of the hearing, or matters therein, as that would be part of the formal record. A delicate balance would need to be struck but this would appear to be a desirable approach. Consideration of a ‘note’ of the meeting would suggest a measure of formality. Advocacy workers are not entitled to receive information relating to the child. Papers can only be shared with advocacy workers when the child agrees to do so. It would need to be clarified whether an advocacy worker, if one had been appointed, would be able to attend the meeting with the Chair. If advocacy support would be desirable at this meeting – which we consider it would be - this strengthens the requirement to ensure early referrals to advocacy organisations.

Recommendation 8.5: Children’s hearings must be planned to the individual needs of each child and their family.

Arbitrary time limits for the length of children’s hearings must be discontinued. Greater consideration must be given to the flexibility of Hearing times and locations to accommodate the needs and preferences of children and their families. It may be appropriate for hearings to take place later in the afternoon or in the evenings, or perhaps even at the weekend and in places close to them, or where they feel comfortable and safe.

Status	Explore or Consult
	3

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board, which will begin its work in early 2024. Proper attention must be paid to respecting the existing terms and conditions of professionals who support the operation of the children’s hearings system. A wider discussion can be promoted by the Redesign Board with reference to the scope for bringing for more flexibility to working arrangements among the affected professions and disciplines.

Recommendation 8.9: The preparation phase prior to a hearing taking place must give particular consideration to the information held by the people who know the child best, including those working closely alongside them, and foster, kinship and adoptive parents. These people must be able to participate appropriately and share their views. Legislative or policy changes may be needed to the definition of ‘relevant person’ status to facilitate these changes.

Status	Explore or Consult
	3

Response

In practice, the preparation for a hearing and the provision of information to a hearing, can and should already involve appropriate consultation with the people who know the child best. In accordance with existing legislation and practice, this should, in the main, be undertaken by the Local Authority, with the Reporter making additional inquiries where it is necessary. As part of a redesigned grounds process, and the proposed “robust preparation phase”, we will consider further how and when the input of key individuals can be incorporated to ensure the Reporter and any subsequent Hearing have the best quality information available to them. Following further analysis, we may wish to consult on the current definition of “Relevant Person” in advance of any future legislative changes.

Recommendation 8.15: National standards for providing reports to the children’s hearings must be prioritised, including the development of a standardised pro forma report template that works across all 32 local authorities and captures all the relevant information held by the different agencies and organisations to aid robust and evidence-informed decision making by the Panel. This should be operational across the children’s hearings system, recognising different assessments and approaches across Scotland but one that creates a standardised reporting process. This must be led nationally but include multi-agency and local authority representation.

Status	Explore or Consult
	3

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board, which will begin its work in early 2024.

Recommendation 8.16: The Child’s Plan, accompanied by clear succinct information and recommendations from other multi-agency forums, should form the basis of the information that the Panel receive and how they make their decisions.

Status	Explore or Consult
	3

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board.

When a child appearing at a hearing already has a Child’s Plan resulting from compulsory measures, we agree with the report’s recommendation that this plan should form the basis of the information the hearing uses. However, we are not in a position agree that the Child’s Plan will always form the basis of information received by the hearing, with further rationale available under the response to 11.1. We agree that a single plan should be enacted in practice, if a family agrees, so that children, young people and families do not end up with a multitude of different, complex plans which may duplicate each other or be hard to understand. A child may have other statutory or non-statutory plans in place at the point where they are referred to a hearing, such as an adoption support plan, which may be more appropriate for the hearing to refer to. Put simply, the hearing must have the right report in front of them in order to be able to make a decision.

Recommendation 8.18: Children and families must be fully supported when their papers arrive from the hearing. Information shared with children and their families must be proportionate and necessary and steps should be taken to minimise trauma, distress, and misunderstanding.

Status	Explore or Consult
	3

Response

The Scottish Government agrees with the intention behind this recommendation. That said, information must be sufficient to fulfil children’s and families’ legal rights, having particular regard to the fact that relevant ECHR rights may be engaged such as Article 8 (the right to private and family life). Further consideration is required about which agency is best placed to offer support, clarification, explanation and reassurance, to children and families. This recommendation will be considered under

the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board to assess what can be achieved under the current system in 2024.

Recommendation 9.1: Children and families should be recognised as experts in their own lives and must feel included in the decision-making process and gain a sense of working alongside the Panel to make strong and competent choices and decisions in the best interests of the child.

Status	Explore or Consult
	3

Response

The Scottish Government supports the intention behind the recommendation. We note that the role of a children’s hearing is to make binding compulsory legal decisions in children’s cases. It is understood that it will usually be the case that a negotiated voluntary approach to engagement is no longer possible or realistic. Fostering a sense of agency and engagement will be important, but children and families need to be clear about the basis under which they are engaging with decision makers and implementation authorities respectively, and those lines should not be blurred. Further exploration of this recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board.

Recommendation 9.3: The voices and experiences of babies and infants must be captured and shared with the Panel.

Status	Explore or Consult
	3

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board. Engagement, and policy analysis, on these issues has been enhanced by insights from colleagues at NSPCC operating the Glasgow City GIFT (Glasgow Infant and Family Team) programme. We anticipate that activity will continue and intensify across 2024.

On advocacy, urgent work will be required to upskill advocacy workers in eliciting, and then reflecting, views of infants and babies. This specialist area of work has been acknowledged and it is recognised that significant resource will be required to develop their skills.

Non instructed advocacy (NIA) is also of key concern particularly when working with babies and infants, as well as children with complex communication needs. Professionals in the hearings space have mixed views as to the applicability of NIA,

and we will work with the Redesign Board to build a consensus on the basis of empirical evidence and practice insights.

Recommendation 9.5: There should be a full examination of the potential benefits and consequences of recording hearings. This should include a full assessment of the impact this would have on the rights of children and their families.

Status	Explore or Consult
	3

Response

This recommendation will be considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board, which will begin its work in early 2024 and work through to 2025. If adaptations need to be made to Procedural Rules, those will be considered towards the end of that next period.

Recommendation 10.2:

10.2.1 There must be active management of the role of Safeguarders as the changes around the children’s hearings system are implemented.

10.2.2 The governance processes must enable highly skilled and qualified Safeguarders and should continue to facilitate excellent oversight and review to ensure the conduct and contribution of Safeguarders matches the ethos of the redesigned children’s hearings system .

10.2.3 At every point of instruction of a Safeguarder, there must be clarity about what is being asked of them and what the focus of their enquiry and contents of the report should be.

10.2.4 Children and their families should be clear what the role of Safeguarders is and how this role aligns with the other people that are attending and contributing to the discussions about their lives.

10.2.5 There must be an understanding that Safeguarders appointed at the stage grounds are established may not require to remain involved at the stage of the children’s hearing, but that their continued involvement may add value and be in the best interests of the child. There should be consideration of the legislative provisions around appointment of Safeguarders to support this approach of active consideration of the need for the Safeguarder as proceedings move from Court to the children’s hearing.

Status	Explore or Consult
	3

Response

We will ensure that the governance arrangements continue to support and enable high quality Safeguarder practice, and that any changes required to the role of the Safeguarder are managed sensitively and effectively. Alignment with work on other recommendations relating to the grounds process and the role of the Reporter is essential. We will consider further to what extent current legislation must change in

order to fulfil the intention of the recommendations, while preserving the independence of the Safeguarder role. This will be included for consultation in early 2024.

Recommendation 11.2: There must be a closer relationship between what is in an order and the help and support that a family needs to address the challenges that are in their life. All orders must be specific about the help and support that the child and family require.

Status	Explore or Consult
	3

Response

The Scottish Government supports the intention behind this recommendation. However, it is not appropriate to include measures in an order that relate directly to anyone other than the child. There may be more that can be done in terms of information sharing, both general and specific, which would benefit decision makers in identifying relationships with other support services, provided this can be done in a rights-compliant way. There may also be training needs identified for Panel Members and other professionals, to ensure that hearings are provided with appropriate wider information in reports, and know how and when to appropriately reference it in an order’s measures. This will link to recommendations relating to the quality and consistency of the Child’s Plan.

Recommendation 11.4: Panels must be empowered to create space for restorative justice and FGDM processes to take place, by deferring hearings for a sufficient time.

Status	Explore or Consult
	3

Response

The operation of FGDM and restorative justice services, and how they may appropriately interact with children’s hearings, as well as other assessment and decision-making processes underway, require careful consideration – with the provision of quality restorative justice services being a longstanding Scottish Government ambition, as noted under 1.7. The Scottish Government will work with the current FGDM community, and CYCJ and key operational partners on RJ on how to manage these interactions as we fulfil the wider ambition to establish nationwide restorative justice services as referenced in recommendation 1.7. Care must be taken to promote procedural agility and responsiveness, without introducing further uncertainty and delay to children’s journeys. We will consult on the issues attending this proposal.

Recommendation 11.7

11.7.1 The Hearing must ensure that, wherever possible, children remain with consistent caregivers when it is not possible for them to remain safely at home.

11.7.2 Children’s hearings must question and test the extent to which implementing authorities are fulfilling their legal and policy requirements with respect to providing consistent, safe, protected, and loving homes for children and ensuring that the legal tests that exist in statute are being fully exercised.

11.7.3 Where relationships have broken down, an inquisitorial approach to the children’s hearings system must allow for conversations about how to rebuild these in the best interests of children and their families.

Status	Explore or Consult
	3

Response

The Scottish Government expects the comprehensive implementation of legal orders made by children’s hearings. There are important issues to consider relating to the appropriate delineation of responsibilities between tribunal decisionmakers, implementing authorities and supervisory responsibilities around professionals working in those authorities. This recommendation will be further considered under the Practice and Procedures workstream, which will be progressed under the Children’s Hearings Redesign Board in 2024.

Recommendation 11.8: There must be closer links between local authority decision-making relating to adoption, permanence and residence orders and the legal tribunal of the children’s hearing. Efforts must be made to streamline aspects of decision-making when a Permanence Order or Adoption Order has been applied for.

Status	Explore or Consult
	3

Response

A recommendation that a child requires permanent care away from home has far reaching implications for a child and family – and the removal of parental rights and responsibilities is one of the most serious interventions the state can make in family life. As such, there are many steps to be taken between reaching this conclusion following assessment, and authorisation for permanent placement (outwith the birth family) being made by a court. The number of steps are designed to ensure that decisions relating to permanence are well-evidenced, fully justified, and approved by independent persons. As yet, we consider that there is insufficient evidence to demonstrate that greater involvement of the children’s hearing in permanency planning would result in better outcomes for the child. As a first step, the Scottish Government will consider with partners the lasting legacy of the Permanence and Care Excellence Programme (PACE) in order to understand where challenges remain, and what interventions are required to support positive change.

Any action following that review would need to be part of wider strategic work to consider the future of fostering and adoption strategy, legislation and practice to ensure we are best placed to deliver on the commitments of the Promise.

Recommendation 11.9: There should be consideration of a set timescale for the length of time a child can be accommodated in what is intended to be long-term placement before a local authority decides to progress an application for an order which provides legal, permanent, and physical security for the child.

Status	Explore or Consult
	3

Response

The absence of prescribed timescales is based on a recognition of the complexity of each child’s individual situation and the need for a degree of flexibility to enable appropriate consideration of the child’s circumstances..

Legal permanence away from home is an extremely serious decision and as such, the process is complex – involving multi-agency working, with multiple stages that must be well evidenced, and with opportunity for the family to participate in the process. There should also be an opportunity for a child to return permanently home where this is safe and right for them. The views of family and child must already be considered at all stages and evidenced.

We recognise that in practice, the journey to permanence can feel too long for the children and families involved, and there are likely multiple reasons for this. Introducing a set timescale – as suggested in this recommendation - could risk unintended consequences and may not support the improvement that we are committed to.

Stakeholders have told us, and we agree, that it is more important to understand - in detail - where and how drift and delay is experienced, what the drivers for this are, and how it could be addressed.

Recommendation 11.11: National best practice guidance around the issue of ‘contact’ and maintenance, repair and development of safe relationships must be developed.

Status	Explore or Consult
	3

Response

As set out in the Scottish Government’s Promise Implementation Plan, loving, safe and stable relationships are – above all else – the most important aspect of care for every child. The importance of “contact” is already recognised within the legislative framework and accompanying guidance (both statutory and non-statutory).

Initial discussions with stakeholders suggest that some form of further guidance on maintaining “contact” and developing safe relationships could be helpful. The aim of the guidance would be to support and develop best practice and emphasise our direction towards better outcomes for those who cannot safely remain at home. The guidance should build upon the National Practice Guidance on siblings and work of the National Implementation Group, including the associated Learning and Development Framework . Central to this work must be the experience of the child, young person and their family and ensuring their views remain at the centre.

The children’s hearings redesign board will wish to connect with relevant stakeholder groups and policy functions in advancing this recommendation.

Recommendation 11.13: For siblings who each have individual Child’s Plans and orders through the children’s hearings system there needs to be consistency of approach, so that there are not competing orders in place with differing ‘contact’ requirements.

Status	Explore or Consult
	3

Response

The process of any assessment of wellbeing within GIRFEC should begin with what the child or young person needs, before considering what measures or services their family should then have in place, to support those needs. However, in some circumstances the child’s needs will differ from those of other family members, and the emphasis should ultimately rest with the child’s needs at the heart of any plan. While we agree that there needs to be consistency of approach for the family, and that there is a duty on implementing authorities to uphold sibling relationships, we would caution against having a mandate that siblings must have the same ‘contact’ requirements in the outcome of a hearing. Where siblings have individual Child’s Plans, the agencies involved in the creation of these plans should work together to ensure that support for siblings and their family is coordinated where safe and appropriate.

Recommendation 11.15: The hearing must seek clarity regarding the provision of help and support set out for the family, including foster, kinship, and prospective adoptive families, in the Child’s Plan and must be clear about its expectation of the implementing authority and multi- agency partners. This should include any financial support a family may need to receive to maintain contact arrangements or to mitigate against any changes in income when a child is no longer living at home, including to benefits.

Status	Explore or consult
	3

Response

In connection with our advice for recommendation 2.6.3, we would suggest exploring how to place a stronger emphasis on the use of the My World Triangle and National

Practice Model within the work of the Reporter and the panel to help address the HSWG’s concerns around the mechanisms in place for a whole-family approach to supporting a child or young person.

In line with feedback from SCRA, the Child’s Plan should only recommend support which can currently be provided within available resources. It would not be appropriate for a Child’s Plan to incorporate financial provisions for the family to maintain contact arrangements if these were not available.

Moreover, in connection with our advice in response to recommendation 11.1, the ownership and responsibility for implementing a Child’s Plan ultimately rests with the local authority and multi-agency partners. It would therefore be inappropriate for the Panel to prescribe the inclusion of hypothetical financial support for a family within a plan.

Recommendation 11.17: The hearing should be made aware of any unintended consequences of a child living apart from their family, including isolation due to the contact restrictions which may prevent a birth parent from having contact with their family or attending community events.

Status	Explore or Consult
	3

Response

The Scottish Government agrees that that is important for the hearing to hear of any unintended consequences of a child living apart from their family, especially when considering fostering and kinship care arrangements, as we know that social connections are important.

A number of organisations receive grants to provide support to birth parents who have had a child permanently removed from their care, this includes research and practical support via case workers or support groups. Organisations are not currently funded to provide support to birth parents during the Hearing stage, although we are aware of a few who offer this service. Since 2022 over £1.2m in grant funding has been made available.

Recommendation 11.18: Appropriate evidence-based help and support must be available to help families to recover and rebuild their lives after a child has been removed from their care, including with respect to future pregnancies and with an understanding that children may return home once they turn 16.

Status	Explore or Consult
	3

Response

The response to recommendation 11.17 provides further information. Organisations bid for a “diagnostic” fund. That involves research into child removal and what can be

done to support parents. Alternatively, they can bid to an “action” fund - the implementation of findings from the diagnostic research. The fund is managed by Corra on behalf of the Scottish Government. Multi-year funding would go a long way to help scale up service provision and entice other bidders, and Ministers are keen to explore that approach.

Recommendation 11.22: Wherever possible, there must be a consistent Sheriff in the grounds and appeal processes.

Status	Explore or Consult
	3

Response

On judicial continuity, officials are engaging with Scottish Courts and Tribunals Service. Any changes made in this space will require engagement with Lord President’s Private Office, the Scottish Courts and Tribunals Service and the Scottish Civil Justice Council. Clearly, there will some circumstances where it is not possible for the same sheriff to deal with all hearings in a case. A sheriff may retire; or be on leave; or be dealing with other urgent business. However, new court rules have just been introduced which provide that, where possible, the same sheriff should deal with private family law cases (e.g. disputes between parents).³ This might provide a possible precedent although we would need to explore further. Court rules are of course made by the courts rather than by Government although we can and do make suggestions for rules. The desire for consistency must also be balanced against the desire to reduce delay as set out elsewhere in the report and recommendations. A number of the applications the court receives in relation to children’s hearings have short time scales and this may cause complexities when sheriffs are required to change business assigned to them at short notice. The relevant officials will continue that engagement work and report progress to the Children’s Hearings Redesign Board.

Recommendation 12.2: The hearing must be empowered to maintain oversight of orders and exit plans made by hearings, to consider concerns reported to them regarding implementation, and to take appropriate action in response to those concerns. This will be enacted by putting in place a more immediate and flexible response to concerns that a CSO is changing or might not be being fully or appropriately implemented.

Status	Explore or Consult
	3

Response

Options regarding appropriate mechanisms for oversight of orders will be considered for consultation.

³ <https://www.legislation.gov.uk/ssi/2022/289/rule/2/made> - Rule 33.36Q

Recommendation 12.4: There must be a provision that enables the Hearing to make a requirement for the implementing authority to regularly report back to the Hearing on progress.

Status	Explore or Consult
	3

Response

In accordance with the Report’s consideration of this recommendation, further discussion and consultation will take place on how this should look in practice. We will consult on this proposed power as part of the broader consultation on the mechanisms for reporting and review of CSOs

Recommendation 12.5: It must be clear that the implementation authority extends beyond social work. There is a duty to collaborate across health, education, justice and other services—and there must be an understanding of the expectation on these other areas and their role in implementing the order.

Status	Explore or Consult
	3

Response

GIRFEC promotes an integrated and co-ordinated approach to multi-agency assessment and planning support. There is an expectation that practitioners work in accordance with both legislation and guidance and that agencies think beyond their immediate remits, drawing on the skills and knowledge of others as necessary and thinking in a broad, holistic way. The fundamental principle of GIRFEC is to provide all children, young people and their families with the right support at the right time. The GIRFEC framework facilitates a range of support from universal, specialist and intensive services which can be delivered through single agencies or jointly through an integrated approach. Child protection processes fall at the urgent end of a range of services which include prevention and early intervention. The GIRFEC principles and approach should be applied consistently across the range of services, regardless of whether or not a child or young person is subject to legal orders.

The Scottish Government intends to take forward this recommendation in line with our response to recommendations 1.4 and 7.5 to determine where the understanding of roles and responsibilities within an implementation authority could be strengthened.

Recommendation 12.6: When the hearing is made aware of a concern or a challenge in implementing the order, or that things are working really well and the order should be removed, the Chair must review the information that has been shared and should have the discretion of considering the next steps, and should have a range of options available on how to proceed—informing the child and family about their decision. These may include taking no further action, highlighting the

concern to the implementing local authority, or directing that an early Review Hearing is required.

Status	Explore or Consult
	3

Response

This recommendation refers to the expansion of the role and authority of the Chairing member of a hearing, and it follows that full realisation of this recommendation is dependent on the availability of a full-time Chair. Further analysis will be required as to whether a Chair can take decisions out with the setting of a hearing in a manner akin to that of a Reporter. This may form part of the joint working being undertaken by SCRA and CHS, and will certainly form part of a public consultation.

Recommendation 13.1: The programme for delivery and implementation put in place to oversee the implementation of these recommendations should consider whether there is a role for a new accountability body to ensure ongoing quality assurance, continuous improvement and oversight of a redesigned children’s hearings system.

Status	Explore or Consult
	3

Response

This recommendation will be progressed by the Children’s Hearings Redesign Board, which will begin its work in early 2024.

Recommendation 13.3: An improved way to effectively and more consistency collect, share and learn from data across the children’s hearings system must be developed:

13.3.1 Local authorities must be supported to hold and provide the data to inform and support national and local understanding of the implementation, impact and outcome of decisions made by the children’s hearings system , to better enable informed and reflective decision making for all partners and improve outcomes for children and families.

13.3.2 Where issues arise due to legislation, for example, GDPR restrictions, all partners should work towards positive solutions. This includes SCRA and CHS fully exploring means of effectively sharing or jointly controlling data in order that the outcomes and impact on the wellbeing of children can be better understood.

13.3.3 The National Convener should seek to share relevant and proportionate information annually with relevant governance structures (for example, Children’s Services Planning Partnerships) to provide local decision makers with relevant, timely reflections on the experiences within the children’s hearings system.

Status	Explore or Consult
	3

Response

This recommendation will be progressed by the Children’s Hearings Redesign Board.

Recommendation 12.3: There must be ways for the child and their family, and the important people in their lives, including those working alongside, them to keep in touch with the Hearing about how things are going.

Status	Explore or consult
	3

Response

The report identifies a disconnect between the child and the implementation of the CSO and the perceived lack of agency for the child after the hearing. The report suggests a shortening of the time before a review can be called. This is likely to have resource implications for the Reporter and for children’s hearings, but appears to have merit. The report identifies a route for the child to be able to contact the Chair. The practical realisation of this concept is largely dependent on the availability of a full-time Chair. The report identifies that the Chair should be made aware of concerns about implementation – again this is reliant on capacity and availability.

We accept that it may be appropriate for there to be more active consideration or oversight of orders being implemented and whether they are achieving the intent of the hearing’s decision. Further work will be taken forward in this regard, and consultation will focus on these issues.

Do not accept

Recommendation 3.8: When the Reporter is making a decision about whether to refer a child to a Children’s Hearing on care and protection grounds rather than offence grounds, they must have regard to the longer-term implications of the establishment of grounds for referral on offence grounds and the, albeit limited, reportability or disclosure of this later in life.

Status	Do not accept
	4

Response

Given the statutory independence of the Principal Reporter, it is for the Principal Reporter to give direction about what Reporters are to take into account in their decision making. SCRA [Practice Direction 6 – Decision Making Framework](#) and [Practice Direction 7 – Statement of Grounds](#) provide Reporters with the framework for their decision-making and drafting the Statement of Grounds.

Reporters are aware of the longer-term implications of offence grounds and do consider them. However, they should not make a decision about which ground to select based solely on these considerations. The approach they take on which ground to select is set out within the decision-making framework – the ground that most accurately represents the main welfare concern for the child. Reporters also have to be mindful of the Court of Session case of *Constanda v M* (1997 SLT 1396), which provided that the Reporter must not use care and protection grounds where the whole basis of the supporting facts is that the child has performed certain acts that constitute criminal offences. To use anything other than offence grounds would be to circumvent the additional evidential burden of criminal proof.

[Reporter Practice Direction 7](#) is very clear about the factors that the Reporter is to consider. The purpose of any statement of grounds is the principal legal basis for decision-making by a children’s hearing and therefore it is important that the selection of ground(s) by the Reporter matches the principal welfare concerns. The system is, after all, designed to deal with both the needs and deeds of a child. The Reporter’s choice of an offence ground will be appropriate because of a number of factors, such as the professionals working with the child having identified that the key welfare concern is the child’s offending. A Child’s Plan focussed on offence-work is therefore required to support the child effectively with strategies designed to prevent reoffending and to foster concepts of victim-empathy and citizen-responsibility. Any consequences of disclosure are also a factor to be weighed in the balance. [Practice Direction 7](#) says the consequences of disclosure are unlikely to outweigh the other factors but may do so in some cases.

Any negative consequences for the child of disclosure should be dealt with directly. To that end, the Scottish Government are planning disclosure reform through the Disclosure (Scotland) Act 2020. The relevant reforms are expected to be implemented in 2025. They strike a balance between protecting people’s right to move on with their lives and allowing disclosure of relevant convictions for the protection of the public.

Recommendation 11.1: The Hearing should engage in robust scrutiny of a Child’s Plan.

Status	Do not accept
	4

Response

In connection with the Scottish Government’s response to recommendation 4.3.3, where a voluntarily agreed GIRFEC Child’s Plan or an existing compulsory Child’s Plan for a Looked After Child has been brought to a hearing, it is reasonable to expect that the hearing would review that plan and make recommendations based on the plan as part of its decision-making. However, a GIRFEC Child’s Plan devised to meet a wellbeing need is entirely voluntary, with the child or young person and their parents free to reject such interventions at any time.

An assessment of need and construction of the Child’s Plan rests with the social work and other services in the local authority responsible for the implementation for the Child’s Plan, rather than with the Reporter and Chair of the hearing. A hearing may currently engage in robust scrutiny of any information provided by the reporter around current or planned measures in place to support a child or young person. However, the tone of the report suggests a greater role for the hearing in supervising the implementation of the Child’s Plan, the responsibility of which currently rests with local authorities.

Accepting a greater role for the hearing as the sole forum with the ‘full picture’ of support planning for the child or young person and their family would therefore risk interference from the hearing in social work and other specialist service sectors, which could harm relationships between the workforce and the reporter and would have significant legislative implications

Recommendation 12.9: Mechanisms should be created to enable the Reporter to draw the attention of the Chair to new information that is thought to be relevant to the decision-making of the Hearing, whether or not it reaches the threshold for a new statement of grounds.

Status	Do not accept
	4

Response

Recommendation 12.9 can potentially be addressed through the Scottish Government’s response to the proposal outlined in recommendation 12.8. Creating any further mechanisms for the sharing of information with the Chair raises concerns about fairness and transparency, bearing in mind potential rights under ECHR may be engaged (such as, for example, Article 8 (right to private and family life)).

Varied responses to sub-recommendations

Recommendation 2.6: There must be changes to the way a Child's Plan is put in place:

2.6.1 Every child who comes to a Children's Hearing must have a Child's Plan, or a clear timeframe for when their Child's Plan will be in place.

2.6.2 There must be national template for a Child's Plan.

2.6.3 The Scottish Government update of the GIRFEC guidance on the Child's Plan must align with the conclusions of the Independent Care Review and the conclusions of this report. In particular, the Child's Plan must include further consideration of the support needs of the family.

Status	Do not accept - 2.6.1	Explore or Consult - 2.6.2	Accept with conditions - 2.6.3
	5	3	2

Response

2.6.1: Panel members are best equipped to make a decision when they have the best available information in front of them. This is dependent on a robust assessment by the Reporter. The Scottish Government favours strengthening the use of the wellbeing indicators, such as the My World Triangle and National Practice Model, within the parameters of assessment carried out by the Reporter and, in that way, those factors will be appropriately covered in conversations during a children's hearing.

Where a child is referred to a children's hearing it may be determined that it is not necessary to make a compulsory supervision order and the referral must then be discharged. Accordingly, we consider that to provide that every child who is referred to a children's hearing must have a Child's Plan in place risks would not be necessary or proportionate where the child may not in fact ultimately be subject to compulsory measures.

In October 2023 the Scottish Government published a Practice Statement on the GIRFEC Child's Plan, which covers non-statutory Child's Plans within GIRFEC. The Practice Statement makes clear that a distinction must be made between any non-statutory Child's Plan within GIRFEC devised to meet a wellbeing need on a voluntary basis (where children, young people and their parents are free to reject any intervention); and a Child's Plan for a Looked After Child based on compulsory legal measures that are otherwise justified.

2.6.2: Officials can explore where existing guidance and support can be strengthened further as part of any future update to guidance on the GIRFEC Child's Plan and through our engagement with stakeholders.

Local authorities have previously contended that discretion over the structure of a Child's Plan should remain with local delivery bodies, so that they are able to respond to the circumstances of each individual child at the heart of such plans and adapt to fit their own locality model.

However, whilst a Child's Plan might look different in structure and appearance depending on the implementation authority, the content and quality of each plan should be consistent from one local authority to another. In relation to Child Plans for looked after children, paragraph 4 of the [guidance on the Looked After Children \(Scotland\) Regulations 2009 and the Adoption and Children \(Scotland\) Act 2007](#) includes information about what should be included. Furthermore, the [National Practice Model](#) sets out what information should be included in a GIRFEC Child's Plan.

2.6.3: The wellbeing of the individual child or young person must remain at the heart of any GIRFEC Child's Plan. One of the key principles of GIRFEC concerns "placing the child or young person and their family at the heart, and promoting choice, with full participation in decisions that affect them". The 'My World Triangle' within the GIRFEC National Practice Model represents the main tool for practitioners' use when assessing a child's needs to evaluate the current circumstances in a child or young person's whole world. Using the 'My World Triangle' allows practitioners, together with children, young people and families, to consider:

- a. How the child or young person is growing and developing;
- b. What the child or young person needs and has a right to from the people who look after them; and
- c. The impact of the child or young person's wider world of family, friends, community and society.

The National Practice Model advises that practitioners should take account of factors which may enhance a family's support, such as the availability of good relationships with extended family, friends or community, and factors promoting personal resilience, when constructing a Child's Plan. In respect of Child Plans for looked after children similar guidance is also included in the [Guidance on Looked after Children \(Scotland\) Regulations and the Adoption and Children \(Scotland\) Act 2007](#), which sets out the requirement for a Looked After Child's Plan to "address **both** what is necessary to ensure appropriate care for the child **and also** what needs to be addressed in relation to the child's family and environment to secure a safe, sustainable and appropriate base for the child."

While GIRFEC guidance emphasises a whole child approach to supporting a child or young person wherever possible, the Scottish Government does not favour adopting a blanket agreement that a Child's Plan must meet the needs of the entire family, not just the child or young person.

In some circumstances (more common in children's hearings cases where legal authority is being sought for compulsory state intervention) the child's needs will differ from those of the rest of their family. The emphasis should therefore ultimately rest with the child's needs at the heart of any plan.

Recommendation 3.6: There must be changes to the way that the Children's Hearings System engages with a family before a child is born:

3.6.1 When it is considered that compulsory measures may be required immediately upon a child's birth, the Reporter must be engaged in multi-agency processes and

decision making and must be empowered to undertake an investigation and prepare draft grounds for referral before a baby is born.

3.6.2 Wherever possible, the Reporter’s investigation prior to a baby being born must involve seeking the voice of expectant parents.

3.6.3 Expectant parents must be offered the support of an advocacy worker and a lawyer at the same time or prior to the Reporter’s involvement. Changes may be required to the legal aid rules to facilitate this.

Status	Accept with conditions – 3.6.1; 3.6.2	Do not accept – 3.6.3
	2	5

Response

The first two elements of this recommendation raise significant legal and policy issues that would need to be considered further with great care in advance of the planned public consultation in 2024. In particular, introducing statutory powers of investigation and the ability of the Reporter to draft grounds of referral to pre-birth would have a significant impact on the rights of a range of individuals, especially their right to respect for private and family life under article 8 ECHR. This makes it important to carefully analyse the necessity and proportionality of what is proposed, before committing to any legislative change.

We will also need to consider whether this proposal is the most appropriate way of achieving its intentions. It will be important to reflect on child protection processes when considering the implications of these recommendations. Bearing in mind the notions of early and effective intervention, and involving parents-to-be in decisions about their child, it is important to plan interventions in an inclusive manner at as early a stage as possible. The concept of intervening prior to birth is not a new concept in child protection processes. Health and social services often work collaboratively to identify high risk pregnancies and develop child plans which include support for the expectant parents in developing parental skills for the benefit of the child if/when subsequently born.

On 3.6.3, we note that the recommendation is unclear as to which decision-making forum advocates or lawyers would be advocating to. A children’s hearing can only be held in respect of a child when they have been born and have become a legal person. At stage, we consider that the focus of the hearing should remain on the child, though the child’s parents or those who qualify as a “relevant person” under the 2011 Act would be appropriately supported to participate in proceedings.

Recommendation 4.3: Once a referral has been received, the Reporter must work more closely alongside children and families, where possible. This should include:

4.3.1 Ensuring the voices, views and experiences of children and their families are routinely part of the Reporter’s investigation (and there must be consideration of a statutory duty on the Reporter to seek the views of the child and family if they wish to share them).

4.3.2 Making connections between other simultaneous child care and protection processes, and removing duplication, confusion and overwhelm where possible;

4.3.3 Reviewing the Child’s Plan (if there is one) as an integral part of understanding the help and support that has been put in place for children and for their families.

Status	Accept - 4.3.1; 4.3.2	Explore or Consult – 4.3.3
	1	3

Response

The first two elements of this recommendation are closely tied to the recommendation in Chapter 7 of the report that calls for a review of processes and meetings that involve children and families. The decision-making role of the Reporter must be clear and separate from the role of other professionals tasked with working relationally with children and their families. We believe that there is merit in what is set out in the part 1 proposal but the part 2 element makes clear that there must not be confusion or duplication and this must be a clear feature of any proposals taken forward for consideration.

Introducing a statutory duty will require primary legislation and prior public consultation. Where the views of a child and family are included in reports the Reporter will take these into account as part of their decision-making. The Reporter decision making framework requires Reporters to record views and assess the likelihood of cooperation etc. as part of decision-making. However, this approach is dependent on good practice of social workers clearly and accurately recording these views in the first place – and is also dependent on views forming a significant element of Reporter thinking in respect of decision making.

We support the principle of the child and family’s voice being included at every stage of the Reporter’s investigation. It is worth noting that this extends beyond the Reporter’s duties, and any information already supplied by the local authority to the Reporter such as a Child’s Plan or a coordinated support plan should already have the child and family’s voice reflected throughout the planning process.

4.3.2: GIRFEC promotes an integrated and co-ordinated approach to multi-agency planning. It encourages practitioners to work in accordance with both legislation and guidance but also expects agencies to think beyond their immediate remits, drawing on the skills and knowledge of others as necessary and thinking in a broad, holistic way. For example, a care plan for a child or young person looked after by the local authority, a health care plan, or an individualised education plan should be incorporated within the Child’s Plan where the child or young person’s circumstances require this.

Under GIRFEC policy, a lead professional will be appointed where a child or young person requires the support of a multi-agency Child’s Plan. The lead professional should have the appropriate skills and experience to coordinate all agencies involved in supporting a child and young person’s wellbeing, taking a cohesive approach in the coordination and management of the multi-agency plan for the child or young person. Where a lead professional has been appointed, they should work alongside the Reporter to ensure coordination between care and protection processes and identify any unnecessary overlap.

4.3.3: Where a child or young person has an agreed Child’s Plan in place, we would agree that reviewing the Child’s Plan is a key indicator of the help and support which has already been put in place for children and their families for the Reporter and Hearing to consider.

The Scottish Children’s Reporter Administration (SCRA) have advised that under current practice, a Child’s Plan (if there is one) should be reviewed as part of the Reporter’s preparation, the hearing’s consideration and will require updating after a Hearing has taken place. The wider tone of the report suggests a stronger role for the Hearings System in the creation and implementation of a Child’s Plan, which would have wider implications. It should be noted that unless the child is subject to compulsory measures, any GIRFEC Child’s Plan already in place to meet a wellbeing need would be voluntary, with the parents/child or young person free to reject such actions.

Recommendation 4.4: The following measures should be considered with a view to reducing the number of ‘repeat referrals’ and increasing coordination between the children’s hearings system and the other parts of the ‘care system’:

4.4.1 The potential value of a ‘closure report’ sent from the implementing authority to the Reporter should be explored.

4.4.2 There must be an option for the Reporter to produce a more specific and detailed written report to the local authority with more of an analysis of the investigation process, particularly if children and families are more involved in discussions alongside the Reporter, where appropriate.

4.4.3 Where appropriate help and support for children and families has not been provided, there should be further collaboration between the Reporter and the local authority, and the potential use of the measure contained within s.68(5) should be explored.

4.4.4 Re-referrals of children to the Reporter within a specific timeframe should be considered as part of a continuation of the previous concern, rather than new circumstances, and wherever possible should be considered by the same Reporter.

4.4.5 There must be improved mechanisms to better capture data to understand the impact of voluntary measures and why children are re-referred to the Reporter.

Status	Accept – 4.4.2; 4.4.3; 4.4.5	Explore or Consult – 4.4.1; 4.4.4
	1	3

Response

These recommendations focus heavily on the interaction between the Reporter and the local authority. The Scottish Government considers that they would benefit from careful consideration by the Children’s Hearings Redesign Board before any final response is given.

In current Reporter practice it can be very helpful to provide full reasons for decision to the local authority. This is done particularly after SCRA have reviewed circumstances where the Reporter’s decision is not in line with a local authority recommendation. An important principle moving forward is to provide full explanations to people involved and that could be adopted.

4.4.1, 4.4.2 and 4.4.3: In principle, the Scottish Government supports the concept of a closure report to ensure that the children's hearings system is coordinated with the wider voluntary support in place for a child or young person. We would expect such a report to be incorporated, under GIRFEC principles, into any existing statutory or non-statutory plans a child or young person may have, including a Child's Plan.

Under s.68(5) of the Children's Hearings (Scotland) Act 2011, if the Reporter considers that none of the section 67 grounds for referral to the hearing apply to the child, or a compulsory supervision order is not necessary for them, there is the option to refer for advice, guidance and assistance. In relation to these situations, the child or young person and/or their family may be willing to accept advice, guidance and assistance on a voluntary basis and the Reporter can refer them to the local authority or another appropriate person/body for this to be provided. What is important is that the support is offered to the family and accepted by them as an appropriate way forward to deal with the situation and as such, no compulsion is necessary. In most circumstances, the support will be provided by the local authority, but it may also be provided by any person or body specified by Scottish Ministers.

Where necessary and appropriate, officials agree that connections between the role of the Reporter and the wider voluntary support in place for a child or young person should be strengthened where necessary and appropriate..

4.4.4: The Scottish Government is supportive of the proposal meaning that a Reporter develops a cumulative understanding of a family's challenges, strengths and circumstances. Assumptions around the child's circumstances should not be made without re-investigation if a child is re-referred within a specific timeframe. The basis for referral to a hearing and finding those grounds established should be clear in all cases. Under the principles of GIRFEC's National Practice model, planning support for a child or young person is a dynamic and evolving process of assessment, analysis, action and review. Therefore, the Reporter should still consider the child or young person's current views and circumstances at the point in time when a new referral takes place, which may differ from any views or circumstances under which they were previously referred to the Reporter.

Recommendation 5.1: The process of establishing grounds must change:

5.1.1 The drafting of grounds and the Statement of Facts should be reframed to take a rights-based approach to help families to better understand why grounds are being established and recognise themselves in the drafting.

5.1.2 Where relevant and appropriate, the Statement of Facts should include strengths and positive elements of a child's care in addition to the challenges in their lives.

5.1.3 Grounds must be established in a separate process before a child and their family attend a Children's Hearing. There must be no more Grounds Hearings.

5.1.4 A more relational way of working to agree grounds and confirm the Statement of Facts should be encouraged, where the Reporter exercises professional judgement to determine when children and families might be able to discuss grounds.

Status	Accept – 5.1.1	Do not accept – 5.1.2	Accept with conditions – 5.1.3; 5.1.4
	1	5	2

Response

5.1.1: The statement of grounds phase can be difficult for children and families. Consequently, SCRA are looking at communication around statements of grounds and also whether further direction can be given in relation to language within grounds. A project on rights-based grounds will further explore the possibility of this approach and of how to address current difficulties.

The project will include consideration of the communication around statements of grounds to better explain their purpose, and where they fit within the overall information available to the children’s hearing and the decision-making function of the hearing. This communication may be the best way to ensure families understand why the statement of grounds has been produced and can see that the statement of grounds forms only part of the information that the hearing will consider. In order to respect rights, the statutory basis for referring the child to the hearing must be clear to families. This also supports them to exercise their right not to agree with the statement of grounds.

5.1.2: A strengths-based approach to assessment by agencies and in decision-making by the Reporter and the hearing is clearly important. However, the very specific purpose of the statement of grounds must be recognised in justifying the state intervention of referring the child to a hearing. Adding strengths to the facts supporting the statement of grounds could result in ambiguity, potential arguments (in court) over relevancy, and delay. The delay could occur during both the Reporter’s investigation and the court process, doubly jeopardising the prospects of a fair and expeditious journey through the children’s hearings system. It could also add a further adversarial element to proceedings if one family member were to dispute strengths attributed to another. This could result in matters not directly related to the referral hampering progress. There is a role for the team around the child to provide support and guidance to them around positives and strengths. Furthermore, there is a role for the Child’s Plan to present social background information (narrating strengths and concerns) to the hearing and this works in tandem with the statement of grounds in setting context.

5.1.3: A greater role for the sheriff court would require the functional, structural and resourcing implications to be explored further with the Lord President and the Scottish Courts and Tribunals Service. This would be a significant step and full consultation would be required. There would be significant additional costs. Officials are in dialogue with Lord President’s Office and SCTS about this proposal, and will report to the Children’s Hearings Redesign Board in 2024.

5.1.4: This recommendation is closely related to recommendation 5.1.3 and should be considered alongside it through a similar process of consultation. It would be important to recognise the efforts Reporters already make in terms of reaching agreement with children and families on statements of grounds. It is also important not to underestimate the challenges that accompany attempts to reach consensus

with children and families who, by the time they reach the stage of being referred to hearings are - in most cases - assessed as being unlikely to engage with services. Introducing extra measures and processes for reaching agreement may just delay an inevitable need for judicial determination.

Recommendation 6.1: A Children’s Hearing must operate explicitly as an inquisitorial, non-adversarial tribunal where the sole objective is to arrive at decisions that are in the best interests of the child. This includes:

6.1.1 The existing Rules governing a Children’s Hearing must be sufficiently robust to ensure that the Chair is able to manage the dynamics and conduct of an inquisitorial approach to a Children’s Hearing. This includes determining who is present at each stage of a Children’s Hearing, whilst effectively balancing rights of attendance and participation, and having the flexibility to change the speaking order and arrangements and the authority to ask contributors to the meeting to leave the room after they have spoken, if that is in the best interests of the child.

6.1.2 The decision-making model must consist of a salaried, consistent and highly qualified professional Chair accompanied by two Panel Members, remunerated at a daily rate.

6.1.3 As far as possible the Chair must be the same Chair each time a child and their family attend a Hearing. This should also apply to Panel Members where possible and desirable.

Status	Accept – 6.1.1	Do not accept – 6.1.2	Explore or Consult – 6.1.3
	1		3

Response

6.1 : It is desirable to strive for an inquisitorial system although this may not require legislative change. The current approach – often cited as challenging or adversarial in nature - has developed not as a design feature, but as a consequence of a number of factors which have driven behaviours within certain parts of the system generally towards a more adversarial footing. This could be reset by enshrining inquisitorial principles in legislation and guidance for practitioners, as noted under the response for 2.1.

Guidance and guiding principles, and a shared set of values between key partners in the system, would arguably help drive the hearings system more effectively towards a more inquisitorial approach. For example, the Mental Health (Care and Treatment) Scotland Act 2003 enshrines principles within the legal framework.

6.1.1: The chairing member of a children’s hearing can already, within the existing legislative framework, consider who can or can’t be present at a hearing (see 2013 Procedural Rules Rule 7(1)). It is already incumbent on the chairing member to set the agenda for the hearing through practice and procedure established by CHS on the direction of the National Convener.

There is an ability to exclude individuals, however, is a high bar test which – following case law - must be applied individually. In practice terms, this operates by consent rather than by exclusion.

As to authority over the scheduling and administration of the hearing, the Scottish Government Ministers would need further evidence to be satisfied that recalibration, or reassignment, of support roles and functions would add value for children and families to an extent that would justify the inevitable concern and disruption in public bodies.

6.1.2 and 6.1.3: The above recommendations must be taken together. It is accepted and understood that the volunteer model of the children's hearings system is subject to significant fluctuation and factors outwith the control of either statutory partners or government. It therefore requires some additional measure of support to ensure capacity and sustainability.

In the current resourcing landscape, the financial cost of introducing a salaried, full-time Chairing member alongside two remunerated panel members for each hearing is prohibitive.

Financial modelling commissioned by the Promise Scotland indicates a Year One cost of approximately £33 million for recruitment and training of 150 Chairs and the introduction of 500 remunerated panel members. This is against a backdrop of a current grant-in-aid budget for CHS of £5.8m per annum.

The financial modelling indicates that if three review hearings are carried out each year for each child, the cost to the statutory duty bearers, SCRA and CHS, will be in excess of £83m pa.

Modelling the chairing member continuity aspect is significant and complex and requires further and more in-depth expert analytical input. Capital costs (estates, IT etc) have not been factored into the model, nor have legal, Safeguarder, advocacy and other costs. Those would all require further analysis.

The Scottish Government will work with the National Convener, CHS and all relevant system actors to devise a sustainable plan addressing the capacity and sustainability issues facing the system.

Recommendation 6.2:

6.2.1 The decision-making model must consist of three distinct phases: (1) a robust preparatory phase; (2) the Children's Hearing followed by a pause in proceedings; (3) sharing the decision with a child and their family verbally and in writing.

6.2.2 The final decision will be a majority decision. If there is a dissenting view from a Panel Member, the Chair must reflect that in the written decision.

6.2.3 The Chair must provide the decision within a reasonable time limit.

6.2.4 A framework must be developed for how written decisions should be approached by the Chair.

6.2.5 A summary of the decision made by the Hearing in plain language and in a format appropriate to the age and stage of the child must be shared alongside the full decision.

There must be consideration given to whether this would also be appropriate for family members.

Status	Accept – 6.2.2; 6.2.3; 6.2.4	Accept with conditions – 6.2.1; 6.2.5
	1	2

Response

6.2.1: Currently all preparatory work is carried out by SCRA, with panel members provided with relevant paperwork ahead of the hearing. SCRA are initiators of proceedings with no communication between the chairing member, other panel members and Reporter before a hearing - to ensure compliance with Article 6 ECHR and the need for children’s hearings to act with sufficient independence and impartiality.

The current preparatory phase could be improved through updated practice support and revised guidance. The report identifies, however, that the child and family should also be offered to meet with their Chairing member in advance of their hearing. It is not clear who else is intended to be present at those engagements, and whether it is to be considered part of the ‘official’ record of the meeting or whether exchanges at those meetings could be admissible either at a subsequent children’s hearing or in related court proceedings. The report proposes changes to the administrative model so a full-time Chair may be better placed to ‘design’ the hearing for the individual child’s needs and preferences.

A pause for reflection following the substantive children’s hearing would bring children’s hearings into line with other tribunals and the Scottish Government agrees that this proposal has the potential to improve clarity of decision-making and the effective communication of children’s hearings’ decisions. It is possible for the hearing to adjourn at present, but practice insight from SCRA professionals confirms that this is used sparingly.

Officials would be keen to further understand, if a paid full-time Chair is put in place, how the current dynamics with other children’s panel members may be affected should the decision-making process be substantially changed by the introduction an adjournment for the hearing to discuss the decision. Nonetheless, it’s recognised that transparency may be lost, but it is recognised that there is real potential for the quality of decision-making to be improved.

Currently, panel members make individual decisions and vocalise their own decisions and reasons. The Chairing member delivers the overall decisions. Revisions to this approach could be improved and communicated through practice guidance and training.

6.2.2: The current system operates by majority decision-making, even where the chairing member is in a dissenting minority. The dissenting decision is noted in the Decisions and Reasons document. Elevating the status of the chairing member in the manner articulated by the HfC report may involve considering consequential changes to the treatment to be applied to majority decisions in future. Again , this requires further consideration ahead of public consultation and any future legislative change.

6.2.3 The decision of the hearing is currently communicated to the child and family immediately within the hearing room, with the written decision transmitted by SCRA on behalf of the children’s hearing within 5 working days.

6.2.4: Training is provided by CHS within the current Chair model under their ‘management of hearings’ inputs, but the quality of written decisions can be dependent on the composition of the panel members serving on the children’s hearing on the day, as well as the circumstances of the case at hand. A new framework could provide a more appropriate structure and guide for the Chair explaining the rationale for the decision of the hearing.

However, it is recognised that the time spent on writing up decisions up may be dependent on the availability of the Chair e.g. the ‘full-time’ aspect under recommendation [6.1.2]

Neither the National Convener nor CHS currently have access to the decisions and reasons at a corporate level. This may require adjustment to ensure systematic quality assurance around the monitoring of the implementation of any framework of written decisions.

6.2.5: This is a desirable approach though may have resource implications and a requirement for the Chair to oversee any ‘translation’ to a child-friendly document to ensure consistency with a legally binding decision.

Recommendation 7.2: Changes must be made to the recruitment and training of Panel Members:

7.2.1 The competency-based recruitment framework currently used to recruit Panel Members must be updated and developed. For the Chair this must include personal qualities, tribunal skills, and legal competence. For Panel Members this must be based on criteria that focuses more on their personal qualities

7.2.2 Where possible, Panel Members should be local to the community that the child and family are from, but there should be a focus on matching Panel Members to children and families to whom they can relate and who are empathetic to their experiences, challenges and circumstances.

7.2.3 The training of Panel Members must meet the needs of an inquisitorial children’s hearings system and must include an understanding of the broader ‘care system’. All Panel Members must receive opportunities to continuously develop their skills and reflect on the way that they engage with children and families, and their role.

7.2.4 The potential value of specialist Panels or Panel Members with specialist training should be considered.

7.2.5 The recruitment and training of Panel Members and maintenance of standards should continue to be undertaken by the National Convener.

Status	Accept with conditions - 7.2.1; 7.2.2	Accept – 7.2.3; 7.2.4; 7.2.5
	2	1

Response

7.2.1: A 'full time salaried chair' would require a robust process based on best HR practices and compliant with employment law, benchmarked against other judicial and quasi-judicial appointments. Recruitment of other children's panel members, on the sessional basis of a daily rate or otherwise retained by CHS, will require a different approach and cannot be considered at the same time or using the same frameworks. CHS already regularly reviews their approach to the recruitment of panel members.

7.2.2: Section 8(3) of the Children's Hearings (Scotland) Act 2011 already requires for panel members to be from the local authority in which they sit 'so far as practicable...'. The National Convener has sought to mitigate issues of operational challenge by, where circumstances or capacity demands dictate, using panel members to cover hearings in different local authorities. This remains a consideration within the operational independence of the National Convener – no-one may guide or direct him in the discharge of his statutory functions.

This proposal introduces a significant new level of complexity which would indicate a significant increase in more detailed understanding of the background of panel members, their experiences and expertise. This would apply both to serving children's panel members and to the potential audiences that CHS would seek to target for future recruitment.

The financial modelling available at time of writing, with the application of CHS demand assumptions and projections, suggests a future need for 5-600 remunerated panel members. It would be a significant undertaking to match the background and expertise of the chairing member and other panel members with the needs of each individual child, although we would support the proposal at the level of principle. This should be a stretch goal.

7.2.3: Training provision is regularly reviewed and updated by CHS. Continuous training is an expected part of the current panel members' responsibilities. It would need to adapt to match up to the ambition of the redesigned hearings system, and the new expectations of panel members within that.

7.2.4: The delivery of this recommendation is not necessarily dependent on remuneration. It is recognised that the set up of the current system may inhibit panel members from more fully engaging due to the essentially part-time volunteer nature of the role. Many panel members do undertake additional training, and it is considered that there is merit in targeting specialist training provision to the extent that would be affordable and deliverable.

7.2.5: This recommendation adheres to the current position and expectations.

Recommendation 10.1: The conduct of lawyers representing children and relevant persons throughout the children's hearings system must be in line with the ambition for children's hearings to be inquisitorial rather than adversarial:

10.1.1 There must be a review of the pre-existing Code of Practice that lawyers are required to adhere to and of the processes with respect to the register of solicitors

eligible to provide legal assistance to children, maintained by the Scottish Legal Aid Board.

10.1.2 There must be mechanisms to review practice and to ensure that lawyers are held to the standard expected of them at children’s hearings.

10.1.3 There must be consideration of the development of rights of audience so that lawyers should demonstrate certain skills and attributes before being able to appear on behalf of children and relevant people at a hearing.

Status	Accept – 10.1; 10.1.1	Accept with conditions – 10.1.2; 10.1.3
	1	2

Response

10.1.1: The Law Society of Scotland and SLAB will wish to consider this recommendation further, and any reform would be part of the wider changes to the hearings system. The relevant portfolio Minister has to approve any amendments to the Code.

10.1.2: The Scottish Government understands that review of practice doesn’t take place under any other area of law. More generally, sheriffs and judges will make their views clear on inappropriate conduct. There could be a role for the children’s hearing members to be more proactive in their comments or ‘calling out’ behaviours when there are concerns about legal representatives.

The SLAB do not have the current powers to be present in a children’s hearing to monitor solicitors’ ‘advocacy’ in the hearing room. This will be consulted upon. When the last major changes to the hearings system were introduced in 2013, it was very difficult to manage expectations by using feedback loops in respect of legal reps’ practice and conduct, because SLAB only have the power to de-register or exclude and their decisions on that need to be proportionate and reasonable. The possibility of other interventions will be subject to consultation.

10.1.3: Other than the proposal for a trauma informed training requirement for those appearing before the proposed National Sexual Offences Court, there is no such requirement anywhere else for accreditation. The Law Society of Scotland operates the solicitor accreditation scheme for various subject matters, including one in Child Law. If some type of accreditation is required, without corresponding remuneration, then it may lead to a reduction in solicitors undertaking this work. It costs time, effort and money to become an accredited specialist. If it was made compulsory for those who are registered, then that may affect the volume of solicitors doing this work.

Recommendation 11.5:

11.5.1 Where alternative options to Secure Care are not available in local areas, this should form part of the hearing’s contribution to the data collection and information shared with the National Convener so that a national picture for improvement can be gathered as part of the ongoing redesign of Secure Care and the ask of the Independent Care Review to ensure community-based alternatives are available.

11.5.2 The Panel must place expectations on the implementing authority with regard to helping children who are living in Secure Care to maintain relationships that are

important to them and connections to their family and community, where it is safe to do so.

11.5.3 The timescales for children living in Secure Care must be reviewed to ensure that they are appropriate and in their best interests. There must be no expectation or understanding that children should be living for long periods of time in Secure Care, but rather the presumption should be that it is a temporary measure.

11.5.4 An exit plan must be put in place which helps children to understand that a Secure Care arrangement is temporary and when they can expect to move home or to another place of safety, what needs to happen in advance of that, and how they can be involved in that decision-making.

Status	Accept – 11.5.2; 11.5.4	Explore or Consult – 11.5.1; 11.5.3
	1	3

Response

11.5.1: The Scottish Government agrees that information on alternatives to secure care across Scotland is required in order to consider what gaps exist. Work to gather good practice examples of such alternatives is currently underway. A paper will be published shortly for practitioners which provides good practice examples of alternatives to secure care from 8 local authority areas across Scotland. The paper has been developed by a sub-group of the Advancing Whole System Approach (WSA) implementation group which has been set up to deliver priorities from the [Youth Justice Vision](#), published in 2021.

This should be widened to other areas and not just social work, as some alternatives might be more health based for example. It has been raised through the Reimagining Secure care work that there are not always alternatives. This would require a multi-agency response.

This ask could be resource intensive for local authorities in both the sharing of information regarding alternatives and also if the recommendation is for alternatives to be made available if there are gaps.

11.5.2: The importance of maintaining relationships is clear in the [Secure Care Pathway and Standards](#) which were published in October 2020.

The Scottish Government fund a post within the Children and Young People’s Centre for Justice (CYCJ) to support agencies to fully implement the standards to deliver a consistent approach. The attached report illustrates progress made in the implementation of the standards: [Secure Care Pathway and Standards Scotland: The journey of implementation \(cycj.org.uk\)](#)

The Care Inspectorate carried out a [secure care pathway review](#) between July 2022 and July 2023 to consider the impact of the pathway and standards. The review centred on listening to and understanding the experiences of 30 young people across Scotland before, during and after experiencing secure accommodation. The review found that families were not always receiving the practical and emotional

support that they needed to stay in touch when young people were living away from home.

The [Keeping Families Together](#) (KFT) project is funded through Cashback for Communities to support families with children in secure care. Through the project, the Cyrenians aim to help families to maintain, restore or improve relationships while the child is in care and when they return back home. We will ensure CYCJ and Cyrenians are supported to make appropriate links with Children’s Hearings Scotland to ensure panel members are aware of the Pathway and Standards and the support the KFT project can offer.

11.5.3: It is agreed that children should not be living in secure care for long periods of time. However, guidance is already clear that children should not be in secure placements for longer than is necessary and they must continue to meet the criteria for that type of care. Review periods for children living in secure accommodation are more regular than those for children living in other placements and these are set out in legislation.

By introducing more reviews there is risk this could add unnecessary stress and unsettle the child. Fuller stakeholder views would need to be sought but the SG officials view is that the timescales already in place are appropriate and are more frequent than other care settings.

11.5.4: The actions envisaged by this recommendation should already be happening. The Secure Care Pathway and Standards set out what all children in or on the edges of secure care in Scotland should expect across the continuum of intensive supports and services.

[The Secure Accommodation \(Scotland\) Regulations 2013](#) highlight the duties of Chief Social Work Officers to consult with the young person, record the decisions and reasons, and notify young people of their right to appeal. The Care Inspectorate incorporated the Secure Care Pathway and Standards into their new quality framework for secure accommodation services in November 2020, which all the secure services are evaluated against.

Recommendation 11.6:

11.6.1 The processes and support available for families where multiple children are engaged with child protection, and care and support processes including the children’s hearings system must be streamlined and connected.

11.6.2 Wherever possible and appropriate, the same Chair should be present at each separate child’s hearing for the same family (brothers and sisters).

Status	Explore or Consult – 11.6.1	Accept with conditions - 11.6.2
	3	2

Response

11.6.1: This recommendation goes beyond the scope of just the children’s hearings system and would necessarily require a substantial review of process and approach

across multiple sectors for care-experienced children and siblings across the country. The Scottish Government will consider how best to achieve the underlying objective, taking advice from the Children's Hearings Redesign Board.

11.6.2: The Scottish Government agrees with the underlying intention of the recommendation. Achieving it is likely only feasible where a full-time Chair is available given the complexity of scheduling for families with multiple children in the system. Further it would also need to be considered whether it is appropriate for the same Chair to sit on each sibling's hearing taking into account the circumstances of each case. [The National Child Protection Guidance](#) does include some advice in relation to concerns about multiple children from the same family.