



# Progressing Rights at Children's Hearings Scotland



children's  
hearings  
scotland

a summary of our activities  
2017 - 2020

# Contents

What this report is about...	3
Who we are...	3
What we've done...	
Cluster (i): General measures of implementation	4
Cluster (ii): General principles	6
Cluster (iii): Civil rights and freedoms	9
Cluster (iv): Violence against children	13
Cluster (v): Family environment and alternative care	14
Cluster (vi): Basic health and welfare	16
Cluster (vii): Education, leisure and culture	18
Cluster (viii): Special protection measures	19
What we are going to do next...	21
Glossary	22

# What this report is about...

This is a summary of our Progressing Rights Report which looks at how Children's Hearings Scotland's work and activities over the last three years (2017-20) have helped protect and promote children's rights that are in United Nations Convention on the Rights of the Child (UNCRC).

The UNCRC is an international and legal list of rights designed to make sure that all children's human rights are protected and soon this will become part of the law in Scotland. The rights are grouped into clusters that cover things such as being listened to, being protected and treated with respect, having legal representation, and being cared for.

We also let you know what our goals are for the future, which make sure that children's rights, like the right to be heard, is at the heart of everything we do.

Our larger report [Progressing Rights at Children's Hearings Scotland 2017-20](#) includes more detail about the activities we talk about here, as well as information about how the way we work helps protect and uphold children's rights.

We would really like to know what you think about how we can continue to promote children's rights within the hearings system and at the end of this report you will find a space where you can write down any ideas you might have. We would love to hear from you and you can email us at [childrensrights@chs.gov.scot](mailto:childrensrights@chs.gov.scot).

## Who we are...

This report mentions a few different people and groups, the most common ones are:

**Children's Hearings Scotland (CHS)** is the organisation that is responsible for recruiting, training and providing support to the Panel Members who sit on children's hearings in Scotland.

**The National Convener** leads and oversees the Children's Panel, at the moment this is Elliot Jackson. He is responsible for recruiting people to serve as Panel Members across Scotland, and making sure they have the right training and support to make sound decisions in the best interests of infants, children and young people.

**Panel Members** take part in children's hearings and make legal decisions about the care and protection of infants, children and young people. There are around 2,500 Panel Members in Scotland. Three Panel Members sit on each hearing.

**Panel Practice Advisors** are specially trained volunteers responsible for observing Panel Members' hearings to ensure they are following correct practice and are providing a high quality experience to children and families.

**Area Support Teams** provide support and guidance to panel members at the local level. There are 22 of these across Scotland, with 400 volunteer members.

**Safeguarders** are independent people who help Panel Members make the best decisions for a child by making sure the child's rights are protected and their views are heard by the hearing.

**CHS Learning Academy** provides training to ensure our volunteer community's learning is current and relevant for the role.

There is also a glossary of key words at the back of this report.

# Cluster (i): General measures of implementation

## This section is about

How we make sure our organisation's structures respect and promote children's rights. It includes activities around the part that rights play in how we plan and do our work, train people and how we make sure rights are taken seriously.

## Articles

4. Implementation of the Convention
42. Knowledge of the Convention

*Article 4 commits us to doing all we can to make sure every child can enjoy their rights by creating systems and having laws that promote and protect children's rights.*

We have a core duty to ensure we are doing everything we can to realise that every child can enjoy their rights. All our organisational operations should promote rights and enable children to realise their rights. Panel Member decision-making should take rights into account.

We operate within a context that ensures that the best interests of children and young people lie at the heart of everything we do. Our work is guided by national legislation and policy, the UNCRC and the European Convention on Human Rights (ECHR), as well as our own values, vision and mission.

CHS' legal purpose for existing, key principles, and our main aims and goals, all focus on meeting the needs of children and young people and ensuring that we better protect and uphold their rights. We've recently made this stronger by introducing a new Children's Rights and Inclusion Strategy and the appointment of our Children's Rights and Inclusion Co-ordinator.

CHS is one of many organisations that work within the children's hearings system and over the last three years we have worked with our partners (such as Scottish Children's Reporter Administration (SCRA), Social Work Scotland, Scottish Legal Aid Board (SLAB), Centre for Excellence for Children's Care and Protection (CELCIS) and the third sector), to develop and improve practice so as to provide a hearings system that meets the needs of all involved.

Through our Panel Practice Advisor observation programme we have continued to monitor our Panel Members to make sure they meet their responsibilities and act in line with our core values and expectations.

We have worked with young people to ensure that their voice is at the core of our work. Our budgets have included investments to support the inclusion and participation of young people in our work.

We, along with SCRA, have established and consulted our young person's Board – Our Hearings, Our Voice (OHOV). We have included young people in recruitment and training, working groups, and our reporting (such as our 2020-23 Corporate Plan and our new Children's Rights and Inclusion Strategy).

We have delivered a high-quality training programme for our staff and volunteers through our Learning Academy. Our training helps Panel Members to understand the principles of the hearings system, our legal framework and how to make decisions in the best interests of children.

During 2017-20, we delivered training courses that help protect children's rights. Some examples include: the Children and Young People (Scotland) 2014 Act and GIRFEC; Information Governance; Equality, Diversity and Inclusion; Contact; Effectively Communicating with Children; Management of Hearings; and Managing Conflict within Hearings. Our pre-service training, which is done by people wanting to become Panel Members, also included a section on children's rights and the UNCRC.

Our Area Support Teams delivered their own local learning and development programmes to Panel Members. These included sessions on child and adolescent mental health, drug abuse, domestic violence, LGBTQIA+ young people, unconscious bias, trauma, attachment, early intervention, and advocacy.

We have expressed strong support for furthering children's rights, for example, through our formal responses to Scottish Government consultations on the incorporation of UNCRC into Scottish law and raising the age of criminal responsibility.

# Cluster (ii): General principles

## This section is about

How we make sure the rights of all children are protected, how we make sure their views are listened to and how we support them to participate in our work.

## Articles

2. Non-discrimination
3. Best interests of the child
6. Life, survival and development
12. Respect for the views of the child

**Article 2 states that the UNCRC applies to all children without discrimination of any kind.**

CHS organisational operations, Panel Member decision-making, and how hearings run should protect children from all forms of discrimination.

Our vision, mission, values and equalities outcomes share our commitment to provide a fair and high quality level of service to all children, young people and families attending children's hearings. Our ambition is to promote and celebrate an equal, diverse and inclusive culture within the CHS community through a process of continual engagement, communication, training and development.

We established our Equalities, Diversity and Inclusion Working Group, developed a new set of equality outcomes and began work on our new Equality, Diversity and Inclusion Strategy for 2020/21.

Through our Learning Academy, we provided equality, diversity and inclusion training for staff and our volunteer community. Our Area Support Teams ran local learning and development sessions to help prevent discrimination, such as those on 'Rights, Values and Culture', 'Cultural Perspectives', 'LGBT Young People' and 'Unconscious Bias'.

We provided guidance for our Panel Members through our Practice and Procedure Manual to help make sure their decision-making is fair. This includes sections on culture, race, nationality and ethnicity; disability and autism; inclusive language; gender identity and sexuality; and minimising barriers within hearings.

We participated in groups with our partner agencies to improve the experiences of children and young people from minority groups.

**Article 3 states that the best interests of the child must be a top priority in all the decisions and actions that affect children.**

We are doing everything we can to ensure Panel Members are making decisions that are in the best interests of children and enable the necessary care and protection. We adhere to all necessary standards.

The Children's Hearings (Scotland) Act 2011 demands that children's hearings act in the best interests of the child or young person to help, support and protect them. The need to safeguard and promote the wellbeing of the child throughout the child's childhood is the most important consideration that Panel Members have to apply when making decisions about a child.

We have provided training and guidance for Panel Members to make sure that they are well prepared to make decisions in the best interests of children and young people and that they know how to run hearings fairly.

We have provided written guidance and training to make sure Panel Members know when they might need to appoint a Safeguarder, to make sure children and young people's rights are protected, their views are heard and communicated to the hearing; and that any decisions being made by are in their best interests.

Hearings do not directly provide services but can help infants, children and young people to access the support they need so they can achieve their full potential and goals. Children's Hearings Scotland and the National Convener are able to make sure that decisions made in hearings happen and that children and young people get the support that the Panel wants them to have.

***Article 6 gives children a right to life and states organisations must do all they can to ensure that children survive and develop to their full potential.***

Panel Members are, to the greatest extent possible, making decisions that ensure the survival and development of the child.

We have provided training for our Panel Members on how different experiences can impact on a child or young person throughout their lifetime (e.g. courses on adverse childhood experiences; attachment and child development). The decisions they make focus on the needs of infants, children and young people so that they can have a happy and fulfilling childhood.

We have involved hearings and care experienced children and young people in our work, giving them opportunities to develop life skills. We have committed, as a corporate parent, to work with third sector organisations and educational establishments to provide work experience opportunities for young people.

We have promoted and celebrated children and young people, including those with hearing and care experience, through participation in national and local events (e.g. Foster Care Fortnight; International Youth Day; Student Volunteer Week; Care Day and Young People's Human Rights Day).

***Article 12 gives every child the right to their own opinion and for their views to be listened to and taken seriously.***

Panel Members are providing children the opportunity to express their views (directly or through a representative) to a hearing and Panel Members give the views due weight.

We have continued to encourage children and young people to actively participate in their hearing and trained our Panel Members to listen to their views. One of our core principles is that in a hearing they 'must be given the opportunity to express a view and this view must be taken into account in line with the child's age and maturity'.

We have provided Panel Members with training and guidance so that they know they have to try to get the views of the child or young person before they make a decision.

Our website makes clear that children and young people can ask for one of the Panel Members to be at their next hearing and we have introduced new procedures to make sure this happens. We have also made clear that they can have legal representation at a hearing to support them.

We welcome children and young people, specifically those with care and hearing experience, to feedback their opinions about CHS and to get involved with our work to help us improve.

We included children and young people in many of the decisions we made at the national level, through involvement in recruitment and training, working groups, and consulting on our reports. Our local Area Support Teams have worked hard, and continue to do so, to increase, improve and embed the engagement of children and young people into the local recruitment process.



# Cluster (iii): Civil rights and freedoms

## This section is about

Children's rights around family relationships and identity, being able to say what they think and access information they want, keeping their privacy, being treated well and, for those who have had traumatic and stressful experiences and events in their childhood, being helped to recover and reintegrate into society.

## Articles

- 7. Birth registration, name, nationality and care
- 8. Protection and preservation of identity
- 13. Freedom of expression
- 16. Right to privacy
- 17. Access to information and mass media
- 37. Inhumane treatment and detention
- 39. Recovery and rehabilitation of child victims

**Article 7 gives every child the right to be registered at birth, have a name and nationality and, as far as possible, to know and be cared for by their parents.**

Panel Members are making decisions that, as far as possible, mean that children know - and are cared for by - their parents.

Panel Members have been trained to make decisions according to the main principles of the children's hearings system, including that 'parents are usually the best people to bring up their own children and should be encouraged and enabled to do so wherever possible'. Where it is not possible for a child to stay with their parents, hearings make decisions that support infants, children and young people to have a fulfilling and positive childhood. Hearings listen and take account of the views of both children and their parents when making decisions about who should care for them.

In the hearings system a child has a legal right to keep personal relations and direct contact with their parents when separated from one or both of them if it is in their best interest. All hearings have to consider the formal arrangements needed to keep relationships between children and their parents but sometimes Panel Members might be so concerned about a child's welfare that they decide it is better for a child's wellbeing to have little or no contact with their parents. Our preservice training and guidance teaches Panel Members how to make the best decision for the children and young people at hearings.

**Article 8 gives every child the right to an identity and protects their name, nationality and family relationships.**

Panel Members are making decisions that mean children can preserve family relations, without unlawful interference.

We have provided training to Panel Members about the importance of maintaining and protecting relationships between children and their families, including brothers and sisters, and the need to think carefully about how best to do this when making decisions.

We responded to the consultation on the Children (Scotland) Bill 2019 voicing support for

the Scottish Government's proposals to make sure local authorities give as much priority to planning and maintaining relationships between separated brothers and sisters when they look after children, as they do for relationships between parents and children.

We have worked with the Independent Care Review's group championing the rights of brothers and sisters in care away from home and are members of the Stand Up for Siblings group.

***Article 13 states that every child must be free to express their own thoughts and opinions and to seek, receive and impart information and ideas in any form or media of their choice.***

Children are free to express their thoughts and opinions at a hearing through the media of their choice and we actively encourage and engage with children and young people to gather their thoughts and opinions about the children's hearings system to help improve their experiences.

We published information on our website about children and young people's right to talk and ask questions at their hearing, to bring somebody along with them and to say if they do not agree with the reasons why they are at the hearing.

Some children may not want to give their views personally to Panel Members at a children's hearing and they are never forced to do so. We make it clear that they can ask somebody else to speak on their behalf (such as a friend, social worker, lawyer, advocacy worker, or safeguarder).

We encourage children and young people to share information with a hearing in ways that they choose, such as through drawings, video recordings, the All About Me form issued by SCRA, and the Mind of My Own (MOMO) app.

We have shared information with children, through our website, of their right to complain if they are not happy about the way they have been treated at their hearing, and of their right to their hearing decision being looked at again if they do not agree with the decision that has been made (known as their right to appeal).

We have asked children and young people what they think about us and our work. Their views have resulted in changes to our reports and website, and our increased use of Facebook, Instagram and Twitter social media platforms.

***Article 16 states that every child has a right to privacy and their private, home and family life should be protected.***

Panel Members recognise that children have a right to privacy. It is important that people attending a child's hearing are only there because it is essential.

We ensure all Panel Members are aware of and trained in the importance of how information is stored, shared and disposed of so as to protect the privacy of children, young people and their parents and carers.

We have trained Panel Members to help ensure a hearing only involves people who really need to be there. This helps make the hearing less scary for children and protects their privacy.

We have provided guidance for Panel Members about how they can exclude journalists from a hearing if they need to get the views of the child, or if their presence is distressing the child. By law, journalists cannot publish any information that is likely to identify a child, their address or school.

Panel Members have been trained so that they can confidently make decisions about whether or not to reveal information, such as where a child lives or goes to school. They may decide that this type of personal information should not be disclosed if they think it is likely to cause significant harm to a child.

We have provided preservice training to new volunteers about how to carefully look after the reports that are needed for hearings to protect the privacy of infants, children, young people and their families. We have systems in place to make sure breaches of practice are taken care of quickly and formally through reporting to the Information Commissioner's Office.

We have provided training for all our staff and volunteers on information governance. They must complete and pass this course every two years.

***Article 17 states that every child has the right to reliable information from a variety of sources and that information should be provided in a way that children understand.***

We provide information about the hearings system in a range of formats so that all children attending hearings are fully informed and feel comfortable about what is happening.

We published information about CHS and the hearings system on various platforms and in a variety of formats. We have increased our use of social media, such as Facebook, Instagram and Twitter, to make it easier for children, young people and their families to access information about CHS.

We have worked hard to make our communications accessible and easy to understand. We involved young people in designing our published reports.

Through our website we provided children and young people with information about attending a children's hearings, including what happens, what their rights are and who can help them prepare for a hearing.

***Article 37 includes the rights to be protected from cruel or degrading punishment and states that children should only be arrested, detained or imprisoned as a last resort and for the shortest time. Children must be treated with care and respect and be able to keep in contact with their family.***

Panel Members are making decisions that do not unlawfully or arbitrarily deprive children of liberty, and that this is only used as a measure of last resort and is for the shortest appropriate period of time.

Panel Members are making decisions that ensure children and young people are not deprived of contact with their parents unless it is in the child's best interest.

We have provided training for Panel Members to make sure their decisions are based on helping rather than punishing children and young people. Hearings are based on the principle of minimum intervention- that is, an order is only made if it is thought better for the child than if no order is made. Most orders support children to stay in their own home.

In our preservice training courses, we made clear to our new volunteers that a decision to make a Compulsory Supervision Order must include telling the child how long it will last for.

*Article 39 states that children who have been hurt, neglected or badly treated should receive special support to help them recover their health, dignity, self-respect and social life.*

Panel Members are making decisions that promote recovery and social integration of child victims of neglect, exploitation or abuse.

An Order lasts for a maximum of one year but can be reviewed earlier. A child or young person has the right to appeal (to ask for their hearing decision to be looked at again) if they are not happy with the decision made. Orders automatically expire on a young person's 18<sup>th</sup> birthday but it is important that plans for future support, supervision or guidance are put in place before this happens.

Hearings can make decisions that restrict children and young people's freedom but strict legal tests have to be met to do so and this is only ever considered as a last resort. If a child is placed in secure accommodation, a review hearing has to be held within three months of the Compulsory Supervision Order being made.

At every hearing Panel Members have to consider how children will keep in touch with their parents (such as through face-to-face meetings, talking on the telephone or online or through letters and postcards). They will always support children to have some form of contact with their parents if it is considered to be in their best interest.

We have trained our Panel Members to recognise signs of crisis within families, and where there may be neglect, exploitation and abuse, understand the impact on children and young people and how to make decisions that protect children and young people and to help them get the support and services they need from other organisations and individuals.

# Cluster (iv): Violence against children

## This section is about

Children's right to be protected from all forms of violence, neglect and poor treatment from people who look after them.

## Articles

19. Protection from all forms of violence, abuse and neglect

***Article 19 states that children should be protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.***

Panel Members are making decisions that protect children from all forms of violence, abuse, neglect or poor treatment by anyone caring for them.

We ensure all chairing Panel Members are trained in how to manage conflict within Hearings so has to protect children from any aggressive or violent behaviour when attending their hearing.

The decisions Panel Members make help protect children and young people from violence, abuse and neglect. Panel Members can make decisions to limit or not allow contact or communication with the people who put children at risk of harm; move them to a safer home environment; or make sure details of where they are living are not given to people who may cause them harm.

Over the course of 2017-20 we provided:

- training for Panel Members, through courses provided by our Children's Hearings Scotland Learning Academy and our local Area Support Teams, to make sure they understand the signs and impact of violence, abuse and neglect;
- Panel Members with guidance on how to reduce the likelihood of violence within the hearing room, such as creating distanced seating arrangements between a child and an abusive parent; and excluding people from a hearing if they are preventing the child giving their views or if they are causing or likely to cause significant distress;
- training for hearing chairpersons on managing conflict within hearings and updated our Practice and Procedure Manual to contain sections on managing complex hearings, domestic abuse and coercive control and how it can affect children and families who attend children's hearings.

# Cluster (v): Family environment and alternative care

## This section is about

Children's rights relating to living in a safe family environment and to the rights of care experienced children who have to live away from home.

## Articles

- 9. Separation from parents
- 20. Children deprived of a family
- 21. Adoption
- 25. Review of treatment in care
- 27. Adequate standard of living

***Article 9 provides that children must not be separated from their parents against their will unless it is their best interests and, if they are separated, they have a right to stay in contact unless it could cause them harm.***

Panel Members are making decisions that do not separate children from parents unnecessarily and all interested parties are given the opportunity to make their views known. Decisions should also not deprive regular direct contact with parents unless in the child's best interest.

Panel Members' decisions support children to stay with their parents if it is safe to do so; help children who cannot stay at home to access support and alternative forms of care; and help to check how children living away from home are cared for and that their needs are being met.

We have provided training and issued guidance to make sure all Panel Members understand why it is usually best for children to keep living with their parents but also to know when it is better for a child to live elsewhere (for example, with kinship or foster carers or in residential or secure care settings).

Through our national Learning Academy, local Area Support Team's and our Practice and Procedure Manual, we have provided training and advice to Panel Members about their duty to consider arrangements for keeping relationships between parents and children and how this can help provide children with a sense of identity and reassurance about others' wellbeing, health or safety.

***Article 20 states that if a child cannot be looked after by their immediate family, they should be given special protection and assistance, including being provided with alternative care that is continuous and respects the child's culture, language and religion.***

Panel Members are making decisions that help ensure children who cannot be looked after by their families can access protection and assistance from public services, including alternative care.

If a local authority fails to implement the decision of the hearing, the National Convener can take action to enforce their duty, helping children involved to receive the support that a hearing decided was necessary to meet their needs. During 2017-20, this happened three times.

***Article 21 ensures the process of adoption is lawful and safe and prioritises the best interests of the child.***

Panel Members ensure that adoption is only considered as a last resort for children and young people and only if it is in their best interest to do so.

Hearings provide advice to the Sheriff and local authority about recommendations for adoption. In 2019-20, Panel Members provided permanency-adoption advice in 699 hearings, which was 2% of all hearings held. Adoption is only ever supported if it is considered best for the child not to live with one or both parents for the rest of their childhood.

We began developing a national training module on permanence, which is about providing children with stable, secure and nurturing relationships and a home through to adulthood, and removing them from the children's hearings system. This was introduced Autumn 2020, and some local Area Support Teams ran development sessions on 'Adoption and the Law' and 'Fostering and Adoption'.

***Article 25 gives a child who has been placed away from home for their care the right to regular review of their treatment, the way they are cared for and their wider circumstances.***

Panel Members participate in the periodic review of care ensuring people keep checking if they feel safe and healthy.

A Compulsory Supervision Order should last only as long as is necessary and every child with an order will have this reviewed by a hearing at least once a year. If a hearing decides that a child needs to live in secure accommodation, a review hearing has to be held within three months of the Compulsory Supervision Order being made.

Although Compulsory Supervision Orders usually last for one year, if there is good reason, they can be reviewed earlier. A child, or relevant person, can request a review of the Compulsory Supervision Order after three months or any time after that. The local authority responsible for implementing the Compulsory Supervision Order can request a review at any time.

***Article 27 gives children a right to a standard of living that meets their physical and social needs and supports their development.***

Panel Members are making decisions that help secure the standard of living and conditions necessary for child development.

While CHS is not directly involved in service provision, Panel Members make decisions that help children and young people get support and access to services to help make sure they are living in a caring and loving environment. This needs to be of a standard that lets them grow and flourish, and help recovery and contact with friends, family and their communities.

We have provided national training for Panel Members to help them identify and understand the impact of poor standards of living, neglect, exploitation and abuse on children and to be confident in making decisions that help ensure a child's needs are being met.

Our local Area Support Teams ran development sessions on topics such as 'Adverse Childhood Experiences', 'Resilience' and 'Neglect and Grounds for Referral'.

# Cluster (vi): Basic health and welfare

## This section is about

Children's right to health.

## Articles

- 23. Children with a disability
- 24. Health and health services
- 33. Drug abuse

***Article 23 states that any child with a disability has the right to a full and decent life with dignity and additional support.***

Panel Members treat children with disabilities with dignity and make decisions that promote self-reliance and participation in the community.

We have worked to protect and promote the rights of children with disabilities. We want every child and young person to feel welcome, included and informed when they come to a hearing and we have tried to minimise any barriers children with disabilities might face:

- We have worked alongside Scottish Children's Reporter Administration (SCRA) to make hearing rooms fully accessible and autism friendly.
- We have supported children to see the hearing room before other participants arrive, to familiarise themselves with the room and choose where to sit.
- We have introduced Panel Member Profiles to help reassure children who may be anxious about who they will meet in the hearing.
- We have supported non-verbal children to use alternative methods of communication (such as sign language interpreters and using drawings, whiteboards or flashcards).
- We have made decisions to help children access health care services they may need.

We have updated our Practice and Procedure Manual to include sections on disability, including how best to communicate about disability, the impact of sensory impairment and autism.

We have provided training for Panel Members, at a national and local level, on equality, diversity and inclusion; disability awareness; minimising barriers; and autism spectrum disorder.

We have expanded the ways in which children and young people can contact us through improving website accessibility and increased use of social media platform.

We have achieved Disability Confident Committed certification for the workplace, which means that organisations are encouraged to recruit and keep people with disabilities and those with health conditions.

***Under Article 24, children have a right to the best possible health.***

Panel Members are making decisions that help children who have medical and health needs that are not being met by those who care for them to access the services they need.



Sometimes children and young people who come to a hearing are not being well looked after by those who are supposed to be caring for them and are not getting the health care that they need. Panel Members make decisions that help make sure children and young people get medical and health care they need so that their wellbeing needs are met, allowing them to grow and flourish.

Panel Members can issue a Medical Examination Order if they think a child has an unmet, physical or psychological, medical need. If the child is of an appropriate age and level of maturity, they must give their agreement for a medical measure. Sometimes parental consent might also be required. CHS has given Panel Members guidance on when and how to do this.

***Article 33 states that children should be protected from the illegal use of drugs and from being involved in the production or distribution of drugs.***

Panel Members are making decisions that protect children from the illicit use of drugs.

Children and young people can be referred to a hearing because they are involved with drugs, either directly themselves, or because they mix with others who are involved in producing, supplying or using drugs.

We have provided training for Panel Members so they have an awareness of the impact of drugs and others who use drugs, on infants, children and young people and are able to make decisions that protect them from further negative impact. Our local Area Support Teams also ran some learning and development sessions (e.g. 'Alcohol and Drugs' and 'Children Living with Parental Substance Use').

# Cluster (vii): Education, leisure and culture

## This section is about

Children's right to education.

## Articles

28. Right to education

*Article 8 gives every child the right to an education.*

Panel Members are making decisions that do not deprive children of education and encourage regular attendance at school. The way hearings operate do not deprive children of education.

Panel Members are making decisions that support children and young people to access their right to education.

We make decisions to help young people access an education, even if they do not go to school. In 2019-20, 1,027 children were referred to a hearing for failure to attend school without reasonable excuse. The average age was 13.2 years.

CHS does not provide education services directly but the decisions Panel Members make help young people access their right to education and ensure they develop to the fullest potential.

If an education authority fails to comply with its duty to provide a child with an education, a hearing can require the National Convener to refer the matter to Scottish Ministers. This is rare and only happened once between 2017-20 .

Children's hearings are relatively short, usually lasting no more than an hour, but they take place during school hours meaning some children miss lessons and can feel left out. We are working with our partner organisations to consider how we can reduce any negative impact on infants, children and young people caused by the way hearings go ahead.

# Cluster (viii): Special protection measures

## This section is about

Children in vulnerable situations who need extra help and protection.

## Articles

- 22. Refugee children
- 30. Children of minority or indigenous groups
- 32. Child labour
- 34. Sexual exploitation
- 36. Other forms of exploitation
- 40. Juvenile justice

**Article 22 gives children and young people with refugee status a right to special protection.**

Panel Members making decisions about children seeking refugee status in a non-discriminatory way and protecting rights when no parents can be found.

**Article 30 gives children the right to learn and use the language, customs and religion of their family.**

All our volunteer community receive training in equality, diversity and inclusion matters to enable them to confidently and fairly address the needs of all children, young people and their families.

As an organisation we aim to make sure that all children and young people, including those from minority groups, receive a fair and consistent level of service, that everybody is treated according to their individual needs and nobody is discriminated against.

We have provided training and guidance to Panel Members so they can support children and young people to fully participate in their hearings and ensure they are not discriminated against because of language, cultural or religious barriers. For example, they can decide to move the hearing to a later date to arrange for an interpreter to attend if a child prefers to speak in their own language or they do not have the language skills to participate effectively in their hearing.

**Articles 32, 34 and 36 protect children from child labour, sexual exploitation and other forms of exploitation.**

Panel Members are making decisions that protect children from economic exploitation or harmful work.

Panel Members are making decisions that protect children from sexual exploitation and abuse.

Panel Members are making decisions that protect children from any exploitation that may harm their welfare.

Children can be referred to a hearing for many reasons including all forms of exploitation. We have provided training to our Panel Members so that they understand the impact of mistreatment on children and young people and are able to confidently make decisions that protect them from further harm.

**Article 40 of the Convention states that children should be dealt with outwith the criminal justice system and that the response should be appropriate to their wellbeing and proportionate to their circumstances and offence. They also have a right to legal representation.**

Panel Members are treating children in conflict with the law with dignity and dealing with them in a manner appropriate to their wellbeing.

The children's hearings system is welfare based and tries to keep children and young people out of the criminal justice system if at all possible. We work to make sure children accused of breaking the law are treated fairly and can access legal representation.

A child can be referred to a hearing up to the age of 16 although the system also supports 16 and 17 year olds who are already subject to a Compulsory Supervision Order. The Scottish Government wants to widen access to the hearings system to 16 and 17 year olds and we support this.

A child and young person can be referred to a hearing for committing a crime (also called offence) if they are at least 12 years old. In 2019/20, 2,834 children were referred to the Reporter on offence grounds. We supported the Scottish Government's move to increase the age of criminal responsibility from 8 to 12 years.

We make sure children understand the legal effect of accepting offence grounds or having these established in court for their future. If a hearing thinks a child does not understand this, it can be paused or moved to another day.

We make sure that any child or young person who is entitled to engage a solicitor and apply to the Scottish Legal Aid Board for legal assistance is aware of this.

If a child has been found guilty of, or pleads guilty to, an offence in a criminal court the hearing may be asked to provide advice to the court about what it should do. In 2019/20, we held 148 hearings to give criminal advice. The hearing has to say if it thinks the child should have a children's hearing or be tried and sentenced by the court.

We have worked with our partners to make sure children and young people are not brought into the criminal justice system unnecessarily and we have partnered with the Scottish Legal Aid Board to provide Panel Member training about working with legal representatives in hearings.

# What we are going to do next ...

While much of our activity helps promote and protect children's rights, we know we can do better. We need to be ambitious, forward thinking and challenging. In Our Strategic Outlook 2020-2023 we share what our priorities for the next three years will be and children's rights are at the centre.

We now have a Children's Rights and Inclusion Co-ordinator in place to make sure our new Children's Rights and Inclusion Strategy is at the heart of our work. It puts children's rights and the child and young person's voice at the centre of all we do:

- We want a children's hearings system that listens, acts and places real value and weight to the views of infants, children and young people.
- At Children's Hearings Scotland inclusion will be central to our core values as an organisation. Expression and inclusion of views will be evident in all that we do and will influence how we work internally and with partners.
- Infants, children and young people will feel respected, valued, heard and included across all aspects of the children's hearings system.

We are committed to delivering The Promise and have begun work on our own Promise Programme to identify the tasks required to embed our four strategic themes and measure how well we are doing. The initial focus of our Promise Programme will consist of three main components that ensure:

- Brothers and sisters are involved in decisions that are made at hearings;
- Hearings work with a trauma informed response; and
- UNCRC implementation is shown across CHS' work.

We have developed 11 aims for our Promise Programme and we are in the process of developing specific and measurable outcomes for each of these. We know we need to improve the way we measure how we are doing in promoting children's rights and we have started work to find the best way to do this.

People with lived experience will be at the heart of our Promise Programme. We will work with young people and carers who support the hearing system, champions boards and people who use our services to implement change that delivers a positive experience of children's hearings.

I think Children's Hearings Scotland  
could promote my rights better by...

We'd love to know what you think,  
so please email us at [childrensrights@chs.gov.scot](mailto:childrensrights@chs.gov.scot)

# Glossary

## Children's Reporter

The person who decides that a hearing is necessary and invites everyone to attend. They don't take part in the decision-making in a hearing.

## Compulsory Supervision Order (CSO)

A Compulsory Supervision Order is a legal document that means the local authority is responsible for looking after and helping the child. It can contain decisions that say where the child must live – and other decisions that must be followed.

## Contact

Seeing members of your family (or people who are important to you).

## Foster carer

Foster carers can look after children when their parents are not able to. The children stay with the foster carer in their home.

## GIRFEC

'Getting it Right for Every Child' is the way for families to work together with people who can support them such as teachers or nurses.

## Legal aid

Payment covering some, or all, of a person's legal expenses. This is managed by the Scottish Legal Aid Board (SLAB).

## Permanence

When a child has a stable, safe place to live without needing to come to children's hearings.

## Relevant person

Parents and other people who have a parental-type role in a child's life.

## Safeguarder

Someone who is independent can read the reports and speak to the child and any important people to make sure decisions are being made in the child's best interests.

## Scottish Children's Reporter Administration (SCRA)

The Children's Reporter works for SCRA; they decide if a child might need a children's hearing and arrange children's hearing and send all the papers out.

## Secure accommodation

A form of residential care which limits the freedom of children who stay there and offers intensive support.

## Siblings

Brothers and sisters.

## Statements of grounds

The legal reasons which the Children's Reporter writes explaining why a child has been referred to a hearing.

## Substance misuse

Regularly using anything which affects the way you think and act and adversely affects your health. This can be alcohol, illegal drugs, prescription drugs or solvents.



children's  
hearings  
scotland

3rd Floor Thistle House | 91 Haymarket Terrace | Edinburgh | EH12 5HE  
t: 0131 244 4743 | [www.chscotland.gov.uk](http://www.chscotland.gov.uk)

This publication has not been printed to save paper. However, if you require a printed copy or a copy in an alternative format and/or language, please contact us to discuss your needs.