

**FAMILY LAW COMMITTEE OF THE SCOTTISH CIVIL JUSTICE COUNCIL****INFORMATION PAPER BY THE SCOTTISH GOVERNMENT ON CHILDREN'S ADVOCACY IN THE CHILDREN'S HEARINGS SYSTEM****Introduction**

1. This paper by the Scottish Government provides information on the latest developments and forthcoming plans to fully enact section 122 of the Children's Hearings (Scotland) Act 2011. The purpose of this law is to provide children's advocacy services for children and young people referred to the children's hearings system.

**Overview**

2. The Children's Hearings (Scotland) Act 2011 introduced provisions for children's advocacy services under section 122. To allow time to develop advocacy support for children attending hearings, it was determined in 2013 that section 122 should not be commenced with the Act's other main provisions. The concern has been to avoid obliging children's hearings panel members to alert children to the 'availability' of advocacy in the absence of a fully-resourced provision.
3. The Scottish Government has been working with partners to develop a sustainable model of advocacy to deliver on [Section 122 of the Children's Hearing \(Scotland\) Act 2011](#). This work has included projects delivered by Barnardo's, Who Cares? Scotland, Your Voice, Inspiring Scotland and Griesbach & Associates.
4. In collaboration with advocacy organisations, and other partner organisations who work with children and families and with services users, pilots work has been carried out to test various different models of service delivery within the Children's Hearings system. As a result of the pilots in 2015-17 a model was selected and we have worked through processes which allow Scottish Ministers to contract with advocacy organisations who will provide the service on their behalf.
5. Over the period October 2017 - March 2018, Who Cares? Scotland, working with The Lines Between, a Social Research Agency, was awarded a contract by Scottish Government to develop a National Practice Model and Service Delivery Model for the provision of advocacy services for Children's Hearings. All of the principles, standards and information about the new service is based on this document, available here: [https://www.chip-partnership.co.uk/wp-content/uploads/2019/01/National-Practice-Model\\_Advocacy-in-the-CHS.pdf](https://www.chip-partnership.co.uk/wp-content/uploads/2019/01/National-Practice-Model_Advocacy-in-the-CHS.pdf)
6. The primary role of the children's advocacy is to support children and young people to express their own needs and views and make informed decisions on issues that influence their lives. The role of children's advocacy services is therefore, to make sure that their rights are respected and their views and wishes are fully considered, and reflected in decision making about their own lives within children's hearings.

7. Advocacy services, are to be based on the Scottish Government's definition of [Children's Advocacy](#) Guidance, which states that "advocacy is about supporting a child to express their own needs and views and to make informed decisions on matters which influence their lives. Advocacy workers do not make choices for children – instead, they support children and young people to make their own choices."
8. The advocacy service will be provided for children and young people who are, or are about to be, referred to the Children's Hearings System, or who are already subject to a Compulsory Supervision Order, for the purpose of ensuring they are supported to allow their views to be expressed within a Children's Hearing, pre-hearing panel or connected court proceeding.

### **Expert Reference Group**

9. The Scottish Government set up the [Children's Hearings Advocacy Expert Reference group](#) to support the design and delivery of this service. The group has wide membership, including Children's Hearings Scotland, Scottish Children's Reporter Administration, a number of national and local advocacy organisations, Clan Childlaw, Social Work Scotland, Centre of Excellence for Looked After Children in Scotland, Centre of Youth and Criminal Justice and Scottish Independent Advocacy Alliance. We have recently started a series of sub-groups to take forward specific areas of work as we move towards implementation, such as legislation and regulations, and communications and engagement.

### **Service Providers**

10. Last Autumn the Scottish Government invited expressions of interest from advocacy providers for grant funding to deliver a sustainable model of advocacy. The assessment of applications has concluded and we will be making an announcement of those who have been successful, by end of January 2020. This will ensure there is a primary advocacy organisation, under contract with the Scottish Government to provide advocacy services for children and young people within the Children's Hearings proceedings across every local authority area in Scotland. The Scottish Government is also making arrangements to ensure flexibility in supporting children and young people to have a choice of a different advocacy provider, should this be necessary, for example, where a child does not wish to be supported by the primary provider organisations.

### **Training for organisations**

11. The Scottish Government is funding Clan Childlaw to work with us to develop and deliver initial training for all children hearing's advocacy workers. Training sessions will be held during February to April.

### **Timescales – Regulations and commencement**

12. The Scottish Government are working to a timeframe that will see the provision up and running this Spring 2020.
13. This will involve Regulations (under section 122 of the Children's Hearings (Scotland) Act 2011) to be made and laid in Parliament prior to the introduction of the new provision. A Commencement Order will be laid in January to turn on the Regulation making powers. The Regulations will be laid 14 days later, and subject to Parliamentary procedure and approval, it is intended that this section of the law will be fully commenced by 27 April 2020.
14. The Regulations will set out the meaning of advocacy services support and representation for the purpose of assisting a child in relation to the child's involvement in their children's hearings proceedings.
15. Section 122(2) of the Children's Hearings (Scotland) Act 2011 Act places a duty on the chair of every children's hearing to inform the child about the availability of children's advocacy services.
16. Section 122(4) and 122(5) contain regulation making powers which enable Ministers to make provision for, and enter into arrangements to ensure access to, independent advocacy services for children who are referred to children's hearings.

### **Impact on Court Proceedings relating to Children's Hearings**

17. Advocacy for children has existed, albeit inconsistently across Scotland, as one possible option of support for a child or young person to allow them to understand the process and to engage meaningfully to ensure their views and wishes are considered in relation to decisions being made about their lives. Given that, our assessment has been that there are no immediate changes required in any parts of the Act of Sederunt, particularly in **Rule 3.5 Procedure where child wishes to express a view** of the [Child Care & Maintenance Rules 1997](#) (Chapter 3 Part 2 covers Children's Hearings Court procedures). We believe these already sufficiently support children and young people, and allows them to have an advocacy worker present in Court proceedings.
18. We would welcome the Family Law Committee's view on our understanding that there is no need for change to Court Rules. In addition we would be grateful for views and thoughts about any practical implications that come to mind. Ideas on any monitoring measures you believe may be required would also be welcomed. That would allow us to work together to identify and address any matters arising.

### **Opportunities**

19. The Scottish Government, working with partners, are continuing to develop our strategy to reach all stakeholders necessary to ensure successful deliver of this new service to ensure that the children and young people have their rights respected and are included in their Children's Hearing's proceedings. We would

welcome feedback on how to continue work with the Courts on any areas of communication and support necessary to properly establish this provision.

**Considerations invited**

- The SG team would like to hear your feedback and ideas that would help with the introduction of this new provision
- We would be keen to hear if group members have any questions, concerns or suggestions of how they can support this work
- Any potential barriers you can envisage?
- Do you agree with our assessment that the Child Care & Maintenance Rules 1997 do not need to be changed for this purposes of allowing advocacy workers to support children in Children's Hearings Court procedures?
- What other methods of communication could be effectively used to publicise this new provision within the Courts system?

Scottish Government  
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