

PAPER 5 Varied Responses to Sub Recommendations

Theme	Colour
Overarching principles	Black
Permanence	Light blue
Child protection/ planning for children	Red
Pre birth	yellow
Roles and responsibilities	Green
Advocacy/ children's Rights	Purple
Audit/ review	Dark Blue
Wellbeing / workforce	Orange
Secure care	Dark orange

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	Recommendation	Status	Response	COSLA response	SWS Response
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.	Do Not Accept	<p>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.</p> <p>Where a child is referred to a children's</p>		<p>Usually, a child's plan will be provided to the hearing. It is not for the hearing to agree timescales for the implementing authority.</p> <p>Note SWS do not entirely agree with the SG statement in response to this recommendation. 'Non statutory' plans are not always 'voluntary' and agreed by families. As GIRFEC is in statute we also view any child's plan as having a statutory basis whether or not it is subsequently underpinned by a CSO, PO, section 25 or other order.</p>

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			<p>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.</p> <p>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</p>		
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			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	There must be national template for a Child's Plan.	Explore or Consult	<p>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.</p> <p>Local authorities have previously contended that discretion over the structure of a Child's Plan should remain with local delivery</p>		<p>SWS members recall the extensive and unsuccessful work undertaken to try to develop a national GIRFEC assessment and plan. While a laudable goal, in a world where data systems are increasingly diverse and local funding has been committed to them, consideration of whether the work involved is going to result in the desired outcome and is worth that level of effort should be considered.</p> <p>SWS members ask that this recommendation be rejected on this basis and because their experience is that paperwork for a Child's Plan is now most often developed locally by and with children.</p>

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			<p>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.</p> <p>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</p>		<p>The content in plans will be similar – but a standard template is not relevant for improving outcomes for children and young people. The important point is that it is a Child's Plan.</p>
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			Model sets out what information should be included in a GIRFEC 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.	Accept with conditions	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,		The support needs of family will almost always form a part of the child plan – if the family circumstances can be supported to change then the likelihood of the child returning to their family increases

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			<p>together with children, young people and families, to consider:</p> <ul style="list-style-type: none">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; andc. The impact of the child or young person's wider world of family, friends, community and society. <p>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</p>		
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			<p>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."</p> <p>While GIRFEC guidance emphasises a whole child approach to supporting a child or young person wherever possible, the Scottish</p>		
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			<p>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.</p> <p>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.</p>		
3.6.1	<p>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</p>	Accept with conditions	<p>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</p>		Agree this would be good practice.

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	<p>empowered to undertake an investigation and prepare draft grounds for referral before a baby is born.</p>		<p>planned public consultation in 2024. In particular, introducing statutory powers of</p>		
<p>2.6.2</p>	<p>Wherever possible, the Reporter’s investigation prior to a baby being born must involve seeking the voice of expectant parents.</p>		<p>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.</p> <p>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</p>		<p>SWS caution some care in relation to direct contact between the reporter and the expectant parents. Where concerns are being raised, assessment of need and risk will be underway with the parents and their support network. This is a difficult and delicate period and reporter involvement should be determined by discussion with the team around that unborn child.</p> <p>Members consider that more clarity is required around the perceived benefits of early Reporter involvement.</p>

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			<p>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.</p>		
3.6.3	Expectant parents must be offered the support of	Do Not Accept	On 3.6.3, we note that the recommendation		Increased advocacy is not always a positive. Social Workers and other

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	<p>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.</p>		<p>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.</p>		<p>professionals involved at this stage will always be supporting the rights of the parents as well as the rights of the unborn child. The situation at this point is also not referred to the reporter</p>
<p>4.3.1</p>	<p>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</p>	<p>Accept</p>	<p>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.</p>		<p>SWS members consider that this should <i>not</i> be a separate power for the Reporter.</p> <p>If progressed, the distinction between those working with the family, and the Reporter role to gather evidence and determine if compulsory measures may be indicated should be made very clear to avoid any blurring of</p>

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	<p>family if they wish to share them).</p>		<p>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.</p> <p>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</p>		<p>boundaries and confusion – those making an assessment will already be gaining the views of child and family.</p> <p>This contact may also not be required in all situations.</p> <p>And once a situation reaches a Hearing, the chairperson should be satisfied that the child’s views are already represented</p>
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			<p>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.</p> <p>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</p>		
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			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	Making connections between other simultaneous child care and protection processes, and removing duplication, confusion and overwhelm where possible;	Accept	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		<p>There is a clear distinction between assessment and planning and decision making and this distinction should be retained. Some processes are rightly for different purposes and ensure proper scrutiny of for example decision for permanence.</p> <p>CELCIS have helpful diagrammatic representations of aspects of the system and how they interact.</p> <p>SWS members also suggest that this recommendation reflects the distrust of social workers which comes through throughout the Hearings for Children report and recommendations.</p>

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			<p>education plan should be incorporated within the Child's Plan where the child or young person's circumstances require this.</p> <p>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</p>		
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			<p>coordination between care and protection processes and identify any unnecessary overlap.</p>		
4.3.3	<p>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.</p>	Explore or Consult	<p>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.</p> <p>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</p>		<p>This goes beyond the hearing system and SWS members consider that it is already core and embedded practice. Childs plans are in place for all looked after children and form the basis of a review of that plan at 6 monthly childcare reviews.</p> <p>SWS consider it is not for the panel to be involved in the assessment of need which informs the child plan.</p> <p>Greater clarity around what is being considered would be helpful, but the statutory duty in relation to the child's plan lies with the local authority and must remain there.</p>

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			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.		
4.4.1	The potential value of a ‘closure report’ sent from the implementing authority to the Reporter should be explored.	Explore or Consult	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		<p>SWS members consider this is worthy of exploration but should not involve any extensive additional administrative burdens.</p> <p>Some members challenge the use of an additional term and piece of work ‘closure report’ and whether this can simply be the report provided to the Panel which terminates the order, which should outline what progress has been</p>

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			would expect such a report to be incorporated, under GIRFEC principles,		made during the period of supervision and the plan thereafter.
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.	Accept	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		A closure/exit report may simply indicate that permanence measures are now in place, or that the child has returned to the family, that home circumstances have improved, and compulsion is no longer required, with a brief note of the reasons for referral, and actions resulting in the exit from the hearing system.
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.	Accept			This power and practice exist already

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			<p>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.</p> <p>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</p>		
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			necessary and appropriate.		
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.	Explore or Consult	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,		SWS members note that this depends on the nature of the re-referral , and that the rights of the child in this situation are important

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			<p>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.</p>		
4.4.5	<p>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.</p>	Accept			<p>SWS would wish to explore further what is intended by this recommendation, and whether existing monitoring and oversight in LA’s and detail in referrals to the reporter might already mean this information is already there.</p>
5.1.1	<p>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.</p>	Accept	<p>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</p>		<p>While a rights-based approach is welcomed Members have noted that this is not always achievable or appropriate</p>

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			<p>within grounds. A project on rights-based grounds will further explore the possibility of this approach and of how to address current difficulties.</p> <p>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</p>		
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			<p>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.</p>		
5.1.2	<p>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.</p>	Do Not Accept	<p>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)</p>		<p>Assessment of need includes both strengths and challenges as per GIRFEC</p> <p>Referral for compulsory measures indicates that there will be negative factors involved.</p>

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			<p>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</p>		
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			strengths and concerns) to the hearing and this works in tandem with the statement of grounds in setting context.		
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.	Accept with conditions	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	A more relational way of working to agree grounds and confirm the	Accept with conditions	This recommendation is closely related to recommendation 5.1.3		SWS members are of the view that consensus with children and families is not the goal in a referral to the

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	<p>Statement of Facts should be encouraged, where the Reporter exercises professional judgement to determine when children and families might be able to discuss grounds.</p>		<p>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.</p>		<p>reporter – this is determined by risk and need for compulsion</p>
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6.1.1	<p>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.</p>	Accept	<p>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.</p> <p>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.</p>		<p>SWS members have provided many and detailed examples of situations where the nature of the task before the chair has been beyond the skill and expertise of that chair to manage. The consequences of this for children and families and social workers has been, and continues to be, extensive and contributes to the current adversarial nature of our hearing system, and to the retention issues around social workers willing to work within it.</p> <p>Sufficiently skilled chairs is a critical aspect of the improvement required in the system. Chairs must be respectful of the individual and professionals in the room, and able and prepared to challenge and exclude those who do not operate with equal respect, retaining always the purpose of the meeting and impact on the child.</p> <p>Members note that solicitors behaviour at Hearings is often particularly adversarial and abusive of social workers and that they have little confidence that the code of conduct suggested in the Hearings for Children recommendations will affect much change without more fundamental</p>

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			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		change to how Hearings are chaired and managed.
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.	Do Not Accept	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		
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	Explore or Consult			While appreciating consistency Social Work Scotland members also note that whether this is beneficial or not depends on the individuals concerned.

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	<p>Members where possible and desirable.</p>		<p>ensure capacity and sustainability.</p> <p>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.</p> <p>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.</p> <p>The financial modelling indicates that if three review hearings are carried</p>		
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			<p>out each year for each child, the cost to the statutory duty bearers, SCRA and CHS, will be in excess of £83m pa.</p> <p>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.</p> <p>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.</p>		
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<p>6.2.1</p>	<p>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.</p>	<p>Accept with conditions</p>	<p>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.</p> <p>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</p>		<p>Not all preparatory work is carried out by the Reporter – the assessment work to inform the report to the hearing including the contact with the family, and subsequent report itself is done by the local authority.</p> <p>SWS members can see benefits in a ‘pause’ prior to the decisions being indicated</p>
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			<p>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.</p> <p>A pause for reflection following the substantive children's hearing would bring children's hearings into line with other tribunals and the Scottish Government</p>		
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			<p>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.</p> <p>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,</p>		
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			<p>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.</p> <p>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.</p>		
6.2.2	<p>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.</p>	Accept	<p>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</p>		<p>SWS members understand that this is already the process, therefore no additional action is required. Fuller expression of this in the written judgement would be helpful</p>

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			<p>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.</p>		
6.2.3	<p>The Chair must provide the decision within a reasonable time limit.</p>	Accept	<p>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.</p>		
6.2.4	<p>A framework must be developed for how written decisions should be approached by the Chair.</p>	Accept	<p>Training is provided by CHS within the current Chair model under their ‘management of hearings’ inputs, but</p>		

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			<p>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.</p> <p>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]</p> <p>Neither the National Convener nor CHS currently have access</p>		
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			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	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.	Accept with conditions	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.		
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,	Accept with conditions	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		

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	and legal competence. For Panel Members this must be based on criteria that focuses more on their personal qualities		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	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.	Accept with conditions	: 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		<p>SWS accept the benefits of people who understand situations being prioritises as panel members but are also cautious. Panel members with lived experience must also have processed that experience and not be in a position where exposure to difficult situations triggers issue for them. ‘Matching’ could result in poorer decision for children, unintended bias, and distress for the panel members.</p> <p>Of greater importance is having individuals, regardless of background and living location, who both understand</p>

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			<p>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.</p> <p>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.</p>		<p>and are able to cope with what can be distressing situations.</p>
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			<p>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.</p>		
7.2.3	<p>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</p>	Accept	<p>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</p>		<p>Understanding of the wider care system of which the hearing system is a small but critical part, is important and would enhance current system.</p> <p>Training on the role of the social worker and other professionals would also be beneficial and may improve the understanding of the legal context and parameters within which social workers</p>

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	the way that they engage with children and families, and their role.		redesigned hearings system, and the new expectations of panel members within that.		operates, thus assisting the move away from an adversarial system.
7.2.4	The potential value of specialist Panels or Panel Members with specialist training should be considered.	Accept	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.		SWS members wonder what specialisms are being considered and how this would be applied?
7.2.5	The recruitment and training of Panel Members and maintenance of standards should	Accept	This recommendation adheres to the current position and expectations.		Involvement of other professional who are a critical part of the hearing system may enhance training – what they do, their role and parameters of

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	continue to be undertaken by the National Convener.				work, and role in the hearing system. This is currently not consistent
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.	Accept	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.		<p>The attendance and behaviour of lawyers at hearings, while in place for good legal and representative reasons is the issue most regularly raised by SWS members in relation to hearings.</p> <p>Across the country there are reports of lawyers adopting a ‘defence’ approach in hearings, criticising and pulling apart the social worker who is presenting the multi-agency plan, often in personal and distressing ways. This behaviour is not challenged by chairs who are understandably out of their depth. It is also distressing to children and impacts negatively on relationships.</p> <p>Their negative experience at hearings is one of the main reasons given for why children’s social workers leave and move to adults, justice of third sector. Local managers report that the level of abuse is such that they cannot allow social worker to attend hearing on their own.</p> <p>Members have therefore queried if a simple code of conduct is likely to change this behaviour.</p>
10.1.2	There must be mechanisms to review	Accept with conditions	The Scottish Government		SWS agree with this recommendation – see above

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	<p>practice and to ensure that lawyers are held to the standard expected of them at children's hearings.</p>		<p>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.</p> <p>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</p>		
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			<p>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.</p>		
10.1.3	<p>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.</p>	<p>Accept with conditions</p>	<p>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</p>		<p>SWS members wonder if UNCRC may assist with this?</p>

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			<p>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.</p>		
11.5.1	<p>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</p>	Explore or Consult	<p>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</p>		<p>This is part of the reimagining secure care work and should not need to be on the hearing redesign work plan.</p> <p>Alternatives to secure care will by their nature always be bespoke and dependent on individual circumstances and availability. It is for the LA to create and manage this.</p> <p>The hearing has a core role in secure but so also do CSWO and local authorities.</p> <p>SWS members have a particular concern about those individuals with serious mental health issue who end up in secure because of the lack of</p>

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	<p>alternatives are available.</p>		<p>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.</p> <p>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.</p> <p>This ask could be resource intensive for local authorities in</p>		<p>mental health support. The involvement as a statutory partner of health in secure alternatives and provision would greatly enhance the opportunities for alternatives to secure</p>
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			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 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.	Accept	<p>The importance of maintaining relationships is clear in the Secure Care Pathway and Standards which were published in October 2020.</p> <p>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:</p>		The panel does not need to impose expectations – that legal duty already exists. The context however is complex, and support for local authorities and secure providers to enable often complicated arrangements would be appreciated.

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			<p>The journey of implementation (cycj.org.uk)</p> <p>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.</p> <p>The Keeping Families Together (KFT) project is funded through</p>		
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			<p>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.</p>		
11.5.3	<p>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</p>	Explore or Consult	<p>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</p>		<p>SWS members note that there are already clear and detailed expectations and requirements which sit with the CSWO around children living in secure care.</p> <p>This recommendation is likely not to require further action</p>

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	<p>in Secure Care, but rather the presumption should be that it is a temporary measure.</p>		<p>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.</p> <p>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.</p>		
11.5.4	<p>An exit plan must be put in place which helps children to understand that a Secure Care arrangement is</p>	Accept	<p>The actions envisaged by this recommendation should already be happening. The Secure</p>		<p>See the secure standards – already in place and closely monitored</p>

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	<p>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.</p>		<p>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.</p> <p>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.</p>		
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11.6.1	<p>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.</p>	Explore or Consult	<p>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.</p>		<p>Social work would require to be at the heart of this, should it be considered. It goes well beyond the scope of the hearing system</p>
11.6.2	<p>Wherever possible and appropriate, the same Chair should be present at each separate child’s hearing for the same family (brothers and sisters).</p>	Accept with conditions	<p>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</p>		<p>Cognisant of the importance of sibling relationships, some level of consistency is important but not considered essential. It may also not be appropriate in all situations. Practicalities, given the extent of the definition of sibling, which includes those with a ‘sibling like relationship’ and the different areas where a child and their siblings may live, may also make this impractical.</p>

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			<p>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.</p>		
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