

Children's Hearings (Scotland) Act 2011 - Update

Education, Children and Families Committee

15 November 2011

Purpose of Report

- 1 This report seeks to inform the Committee of the consultation response on proposals to establish Area Support Teams as part of the implementation of the Children's Hearings (Scotland) Act 2011.

Main Report

- 2 At its meeting of 21 June 2011, the Committee considered a report on the main provisions of the Children's Hearings (Scotland) Act 2011 and agreed:
 - a) To welcome the changes brought in by this legislation, placing the child at the centre of the Children's Hearings system in accordance with the European Convention; and
 - b) to support the proposal that Edinburgh should have a stand alone Area Support Team.
- 3 The consultation period on the proposed establishment of Area Support Teams to administer the hearings system commenced in July 2011 with a closing date of 21 October 2011.
- 4 The attached officer response was prepared and submitted to the Children's Hearings Branch at the Scottish Government following discussions with Bernadette Monaghan, National Convener of the newly-established Children's Hearings Scotland, Edinburgh Children's Panel Advisory Committee (CPAC), the Children's Panel Management Group and officers on behalf of the Clerk to the CPAC.

Recommendation

- 5 That the Education, Children and Families Committee note the consultation response.

Alastair Maclean
Director of Corporate Governance

Appendices	Officer's Response to Consultation
Contact/tel	Jane Lockhart, Committee Officer, Tel 0131 529 4226 or e-mail jane.lockhart@edinburgh.gov.uk
Wards affected	All
Background Papers	Report by the Director of Children and Families, June 2011

The City of Edinburgh Council, Edinburgh CPAC and Edinburgh Children's Panel

Formal Response to Area Support Team (AST) Proposals

General

We fully understand the intentions of the new Act and its implications for the existing Panels and CPAC, the members in these organisations and the Local Authorities who support them.

We agree with the philosophy, methodology and dedication the National Convener has applied during her short time in post. In particular, we applaud the time she has given to each existing Panel Area to seek their views.

We agree in particular with the objectives used to determine the outcome of the Area Support Team structure and the number of ASTs that will be created. The number of 17 is very much in line with what many volunteers in the Children's Hearing system saw as both sensible and workable.

We find the proposals generally acceptable and sufficiently streamlined to improve administration and management, but with each area not too large or complex to make them unwieldy.

We support the proposals for provision of support and administrative service provision from the City of Edinburgh Council, subject to a Service Level Agreement being mutually agreed.

It follows, therefore, that we are pleased that our views about a single and "stand alone" Area Support Team for Edinburgh have been included in the proposals.

Background

We acknowledge the Background notes and in particular support the desire to have continuity of the services of the experienced Local Authority staff.

Concern:

Paragraph 1.4 – We are unsure of the meaning of "the Feedback Loop" in this context.

Paragraph 1.8 – We would appreciate greater clarity on "delegated functions". (There are other references elsewhere in the document.)

We have considered for some time that the statement on the membership of the AST below, was a misguided, last minute and poorly thought-through amendment to avoid Local Authority dominance of the AST (this won't happen in Edinburgh but there is potential in other areas.) We suggest that the paragraph is treated flexibly to ensure that the AST has sufficient experienced members to fulfil the required duties and therefore will be similar to the current CPAC and Panel Management Group (PMG) combined.

Para 1.9 states in part:-

- sufficient other persons so that the number of members nominated by a local authority is no more than one third of the total members.

The reality is that this will need to be implemented in very few cases to meet the above arithmetic, especially in the single authority ASTs. However, given that the volume of work undertaken by the AST will be similar to that currently undertaken by both CPACs and PMGs, "the sufficient other persons" will be needed to bring the strength of the AST close to the current aggregate number of members of both. It would be better to see the statement as solely "**Sufficient other persons**" as required, provided nominated members are fewer than those appointed by Scottish Ministers.

Administrative and Clerical Staff

Paras. 1.13 and 1.14 state:-

1.13 It is my view that the support of the clerks and administrative staff is critical to the successful establishment and operation of the Area Support Teams. If the driver for modernisation is the harnessing and systematising of good quality, professionalised support for panel members, it follows that the administrative, clerical and procedural supports need to be provided at the best possible level and, those standards need to be secured and maintained Scotland-wide.

1.14 I believe that it would be most beneficial to the system to secure ideally many of the current clerks themselves and any other administrative staff currently involved, in order to provide continuity, or at least to secure a commitment from local authorities that they will offer staff who are skilled and experienced to the same consistent level and have knowledge of the policy area, to support the Area Support Teams.

We fully endorse the comments above about the support given by the paid Local Authority staff. We consider that access to the experience of the existing staff members is essential to the smooth transition and on-going success of the ASTs. We do realise, however, that this will be easier to achieve in the ASTs covering a single Local Authority area.

Concerns:

Until a model for a service level agreement is presented, the proposed management of a number of issues are unclear.

- ***That the Local Authority involvement with regard to the recruitment and payment of safeguarders, and legal representatives is still unclear.***
- ***That sufficient ring-fenced financial and dedicated staff resources need to be provided to cover these parts of the service.***
- ***That sufficient ring-fenced funding be provided to retain the required calibre and experience of the Local Authority staff.***
- ***That a clear arrangement is determined for the maintenance, updating and operation of Panel Pal.***
- ***That a clear arrangement is determined for the maintenance, updating and operation of the Hearings rota and the monitoring rota.***
- ***That a clear arrangement is determined for the financing and provision of local training and information.***
- ***That the National Convener and the Council may not reach mutual agreement on the staffing and/or financial arrangements and new staff unfamiliar with the Children's hearing processes and Administration are employed by the AST.***

Pre-Consultation Process

We recognise that the Pre-Consultation process was undertaken in a professional and acceptable manner through a number of formal and informal meetings. For the Edinburgh Panel area an arrangement was agreed that was mutually acceptable to all parties including the adjacent Panels.

We support the pragmatic approach and do think that a realistic and workable proposal has been made.

Rôle of AST members

Para 3.1 states:-

- 3.1. The members of the Area Support Teams might be broadly similar to those who currently either form part of the CPAC or attend its meetings in a supporting or advisory capacity.**

This statement and the remainder of Section 3 support our argument above about the size of membership required for the AST to operate effectively. There will be members of the PMG who carry out vital roles in liaison with Social Work, SCRA and local training. It is vital that they are included in the wider management arrangement.

In Edinburgh, the Panel Management Group, comprising Panel Member and CPAC representation, is involved in liaison with SCRA and Social Work, all of which are of great importance and need to be continued. We look forward to working with the National Convener within the AST to achieve the best means of doing so.

The rôles described at this stage are general and the suggestion of separation of pastoral duties from those of complaint handling members is understood but in a big area panel with a relatively small number of AST members everyone may have some pastoral rôle at some stage!

However separation may be necessary for certain aspects of Appointment, Re-appointment and Observations as well as complaints. This aspect of the rôles we expect will initially reflect the current CPAC rôles but need to be developed and refined over time. We do not think that it is necessary for the National Convener to distinguish who has these roles within individual ASTs.

We also understand the reasoning behind the desire to ensure that any Local Authority member is not closely involved with the Local Authority Children's services. We consider that all members of the AST including Local Authority members should be expected to take part in training and at least some of the various duties to be carried out.

Concerns:

- That in the light of Government desire to cut the number of CPACs there is an expectation that the ASTs will have fewer members than the existing CPACs and Panel support groups have at present. The reality is that the work done by these volunteers will not diminish and in some new combined ASTs may actually increase.***
- That AST may have insufficient numbers to cover all the duties without a further burden on existing volunteers. After the initial appointment of the AST, what is the proposed process for co-opting further members?***

- ***That the appointed Chair of an AST and Panel representative have too many expectations and requirements placed on them. The role of the AST Chair is not clearly defined, nor are the skills required to fulfil the job description***

We support the proposal that the AST chair be appointment by the National Convener and the appointment of a “senior” Panel Member. However, in a large Panel area the duties of these volunteers will be numerous, frequent and all the year round. We suggest that a depute for each is also appointed or nominated.

We also welcome the review of the complaints procedures, which although rarely needed, are very cumbersome and time consuming.

When CPAC members transfer to the AST they cease to be a member of the CPAC. There are bound to be number of continuing and outstanding issues and a process to deal with this transition is essential.

Concerns:

- ***That there is a possibility that existing matters of complaint, attendance and Leave of Absence are missed at the changeover. A continuity plan is essential.***
- ***That the timing of transition arrangements is sufficiently flexible to cope with the Local Authority budget and staff management arrangements.***

Proposed Structures

Our proposal at the pre-consultation stage was for a single AST based on the current Edinburgh panel area. This was a conclusion shared by the other Panels who meet under a South East Scotland Joint Liaison Committee.

We are pleased to see that as a result of our various discussions this proposal has been accepted.

Conclusion

We generally support the proposals, subject to further discussion on the concerns expressed above.

We strongly support the desire for continuation of the support given by the City of Edinburgh Council.

We look forward to co-operative and progressive dealings with the National Convener, as we have witnessed so far, with an aim of creating an effective Area Support Team for the Edinburgh Panel Area.

Response from:-
The City of Edinburgh Council,
Edinburgh CPAC,
Edinburgh Children’s Panel