

## **Children's Hearings Scotland (CHS) Response to A Human Rights Bill for Scotland Consultation**

### **Children's Hearings Scotland**

Children's Hearings Scotland (CHS) was established in July 2011 as a public body to support the National Convener in delivering their statutory functions. These functions include the recruitment, selection, training of and support for Children's Panel members.

A Children's Hearing is a legal tribunal comprising of trained Children's Panel members who decide whether compulsory measures of supervision should be put in place for children in need of care and protection.

Panel Members decide whether compulsory measures of supervision are needed to address risks to children and young people's welfare and ensure that their needs are properly met. Children's Panel Members are trained to take a children's rights-based approach to these decisions.

### **CHS Consultation Response**

CHS fully supports the principles and aspirations of the Human Rights Bill for Scotland.

Whilst CHS supports the overarching principle that human dignity should be considered by courts, this should extend to all legal tribunals, including Children's Hearings. Formally introducing 'dignity' into the decision-making of courts and legal tribunals will require carefully designed and resourced learning programs and practice frameworks to ensure 'dignity' is consistently applied.

Children's rights are synonymous with the human rights of children. Therefore, a Bill to further rights in Scotland is welcomed. This should not detract from the particular needs of children who, due to their age and stage, require additional protections. Incorporating, implementing and enforcing rights within Scots law

is a positive step in ensuring everyone, including children, can have their rights respected.

The Minimum Core Obligations align well with existing state obligations under the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC could provide an effective framework for the Bill's approach. To avoid duplication and confusion, the Bill should incorporate other key legislation like the Equality Act 2010, Human Rights Act 1998 and UNCRC under one overarching reporting framework to avoid duplication.

Key to the success of the proposed Bill will be how new rights will be realised, are easy to understand; mechanisms should be in place to enable individuals to become aware of their rights; and that breaches of these rights should be open and accessible to challenge. Particularly provisions will need to be made for children so that resources and processes are designed in a child friendly and accessible way.

Panel Members balance the rights of children and their families when making decisions. Children's rights for CHS exist within this wider context. This Bill presents an opportunity for human rights to become a more fundamental part of Scottish society.

CHS support the aspirations in the Bill in relation to front-line complaints handling mechanisms for public bodies. However, it is important to recognise that front-line early resolution mechanisms are well established in public bodies such as CHS and the Scottish Public Services Ombudsman (SPSO) provides guidance and reporting mechanisms for this in the existing Model Complaints Handling Procedure. The proposals in the Bill to share complaints across scrutiny bodies is welcomed as long as the focus is to protect human rights. The proposal to put human rights at the centre of SPSO remit is welcomed, but we believe this needs to include specific provisions for children; namely making sure the complaints processes are child friendly, easy to access and additional support such as advocacy is made available to children.

CHS urges full consideration of legislative competence to avoid the complexities faced in progressing the current United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and support all possible means of ensuring the proposed Bill is not open to challenge, delay and dilution. Preparatory legal

work must be undertaken to ensure expectations are met and to maintain the efficacy of the Bill's ambitions.

In summary, CHS strongly supports the principles and aspirations of the Human Rights Bill for Scotland. A focus on child-friendly implementation will ensure equity and accessibility. This is a positive opportunity to protect the human rights of children.