ABSTRACT

The Children's Hearings (Scotland) Bill was passed by the Scottish Parliament on 25 November 2010. The Bill received Royal Assent on 6 January 2011 and will now be known as The Children's Hearings (Scotland) Act 2011. Implementation priorities and timescales are now being identified with the help of various working groups in order to try and achieve full implementation of the legislation by summer 2012.

1 RECOMMENDATIONS

It is recommended that the Social Work and Health Committee:

i) notes the content of this report;
ii) instructs the Director of Social Work and Health to continue to monitor and review the impact of this new legislation and bring further reports to Committee as required.

2 BACKGROUND

Angus Council’s response to the original consultation on the review of the Children’s Hearing System is summarised within Committee Report No 910/08 ‘Strengthening for the Future – A Consultation on the Reform of the Children’s Hearings System’.

Angus Council’s response to the initial draft Bill may be found in Report No 520/09 “Children’s Hearings (Scotland) Bill”. The consultation on the draft Bill highlighted a wide range of comments and concerns regarding the proposals to the Scottish Government. The Scottish Government circulated a paper outlining their response to the comments and concerns they received to the draft Bill on the 2 October 2009. A report detailing “The Scottish Government’s Response to Comments Regarding the Draft Children’s Hearings Bill” was tabled to Committee on the 12 November 2009. Report No 811/09.

Finally on the 24 February 2010 the Scottish Parliament’s Education, Lifelong Learning and Culture Committee decided to call for written evidence on the general principles of the Bill. A response from the Director of Social Work and Health was placed before Committee on the 8 April 2010, Report No 259/10.

The purpose of the Children’s Hearing (Scotland) Act 2011 is to modernise and streamline the operation of the Children’s Hearing system, deliver greater national consistency and simplify provisions for warrants and orders. It is also intended to ensure that the system is robust in the face of developments in the European Convention on Human Rights.

3 THE ACT

The Act restates much of the existing law on children’s hearings and removes it from the Children’s (Scotland) Act 1995.
The main elements of the Act include:

- The creation of new office-holder to be know as National Convener;
- A dedicated national body, Children’s Hearing Scotland (CHS) that will support the National Convener in the delivery of functions associated with recruitment, selection, training and support of panel members;
- The establishment of Area Support Teams (AST) by the National Convener in collaboration with local authorities that will support Hearings at a local level (members of the current Children’s Panel Advisory Committee will transfer to the AST’s);
- Give each local authority the right to appoint a member of an AST in addition to the power to make further suggestions for appointment that the National Convener must consider;
- The creation of a National Children’s Panel;
- The creation of a National Safeguarder Panel;
- Provision for the development of an advocacy service specifically for children in the Hearing system and ensuring children’s views are heard;
- Modernised grounds of referral;
- Provision to ensure that offence grounds accepted or established at a Children’s Hearing are no longer classed as a ‘conviction’ but as an ‘alternative to prosecution’;
- Provision of a national scheme through the civil legal aid system for state funded legal representation in children’s hearings and associated court proceedings;
- Introducing transparency in the decision making process for secure accommodation and providing the right of appeal;
- Extension of ‘relevant persons’ status;
- Provision of a “feedback loop” to permit the National Convener to collate information from local authorities on the outcomes of supervision orders;
- Strengthening the power of hearings to hold local authorities to account concerning the implementation of decisions made by the hearing.

4 CURRENT POSITION

The guidance notes that accompany the Children’s Hearing (Scotland) Act 2011 are currently being developed. The guidance notes will provide more detail on the impact the legislation will have on practice. Bernadette Monaghan was now been appointed as the first National Convenor of the Children’s Hearing and takes up post in April 2011.

There have been a number of issues in relation to the Bill. It should be noted that creating a new national body will take away power away from local authorities and Children’s Panel Advisory Committee’s (CPAC). The rationale of this change is to improve overall standards and consistency by giving powers to a National Convener, abolishing Children’s Panel Advisory Committee’s (CPAC) and reducing the role of the local authority. As part of the consultation process Angus Council questioned the need for national change when a number of local authorities, including Angus, had existing local partnership arrangements in place that were working well. In order to safeguard and preserve existing local connections, under the new Act CPAC members will be given automatic membership to the new Area Support Teams. A further change introduced in the Bill is that the new Area Support Teams must be established with local authority agreement.

It should also be noted that Section 173 of the Act makes provision for a “feedback loop” that empowers the National Convener to ask local authorities for information about “the ways in which children who are subject to orders have been affected by them”. COSLA and the Association of Directors of Social Work have noted concern regarding the additional reporting burden which will be placed upon local authorities in relation to this.

5 PROPOSALS

While Angus Council supports the values and principles upon which the Act is based it is the ‘Guidance Notes’ for the Act that will provide the detail necessary to consider the full implications of this legislation on the local authority. The Director of Social Work and Health will therefore continue to monitor and review the impact of this Act and will bring further reports to Committee as required.
FINANCIAL IMPLICATIONS
There are no financial implications arising from this report. The full impact of the Act is unknown at this point.

HUMAN RIGHTS IMPLICATIONS
There are no human rights implications arising from this report.

EQUALITIES IMPLICATIONS
The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

SINGLE OUTCOME AGREEMENT
The report contributes to the following local outcome contained within the Single Outcome Agreement for Angus:

- Nurtured: Children and young people in Angus will live within a supportive family setting with additional assistance if required, or where this is not possible, within another care setting ensuring a positive and rewarding experience, this is in line with national outcomes relating to accessing high quality services.

CONSULTATION
The Chief Executive, Director of Corporate Services, Head of Finance and Head of Law and Administration have been consulted in the preparation of this report.

CONCLUSION
While Angus Council supports the values and principles upon which the Act is based it is essential that we continue to monitor and review the impact of the Act following issue of guidance to local authorities regarding giving it effect. In the meantime there are likely to be further discussions and negotiations ahead, e.g. with regards to the new Area Support Teams.

The Director of Social Work and Health will continue to monitor and review the impact of this Act and will bring further reports to Committee as required.

R PEAT
DIRECTOR OF SOCIAL WORK AND HEALTH

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Committee Report No 910/08
- Committee Report No 520/09
- Joint Committee Report No 811/09
- Committee Report No 259/10

SW&H/KL/PG