

PLANS FOR HEARINGS

HIGHLAND PROTOCOL Final - November 2008

(Formerly the Reports for Hearings Protocol)

This protocol governs all reports for Hearings (the Child's Plan) provided to SCRA from :

- 1/12/08 in INBS;
- 1/2/09 in Skye & Lochalsh, Mid & West Ross;
- 1/4/09 in Wick & Thurso, Golspie & Tain, Alness & Invergorden.

Goal

To improve hearings by ensuring that papers for every child's Annual Review or Review required by a Hearing:

- Are sent by SCRA to recipients in one mailing;
- Contain a single, up-to-date Child's Plan, containing the information necessary for an effective hearing;
- Arrive with children, relevant persons and panel members in good time.

Framework

Effective hearings can only take place on the basis of good information received in good time. Families and children need time to consider the reports upon them if they are to participate in hearings, and so as to seek support if necessary. Panel members need time to prepare for hearings on the basis of good, up-to-date information and recommendations.

Rule 5 of the Children's Hearing (Scotland) Rules 1996 sets out the legislative timescales for ensuring that all children's hearings benefit from reports and other information provided to all parties in good time. To ensure that all involved have adequate time to prepare for such an important event, SCRA in Highland sends out the papers six days before any hearing.

Specific objectives

In 95% of Annual/Hearing-requested reviews, a single, up-to-date Child's Plan will be submitted to SCRA at least 7 days before the Hearing, for sending out to all parties 6 days before the Hearing.

In 70% of Annual/Hearing-requested reviews, the Child's Plan meets all of the relevant Plans for Hearings Checklist criteria (checklist to be found at end of this Protocol).

Both objectives are to be met across Highland by 1/6/09.

Core agreement

- SCRA will, wherever possible, give SWS (Children & Family team or YAT) at least 20 working-days notice of any Annual/Hearing-requested review Hearing;
- In all cases where at least 20 working-days notice has been given, SWS will provide a single, up-to-date Child's Plan at least 7 calendar-days before the Hearing;

- SCRA will then send out all papers to all parties, including the up-to-date Child's Plan, 6 calendar-days before the Hearing;
- If no Child's Plan has been received 7 calendar-days (at the latest) before the hearing, SCRA will cancel the scheduled Hearing, and immediately:
 - Schedule a fresh Hearing, with that Hearing to take place within 25 working days;
 - Write to the appropriate Area Children's Services Manager, copied to the relevant LA team-leader, indicating why the original Hearing has had to be cancelled, and giving the re-arranged date;
 - Write to all relevant parties indicating why the original Hearing has had to be cancelled, and giving the re-arranged date;
- SCRA will not 'chase' any late Child's Plans.

Other hearings

This protocol applies to Annual/Hearing-requested review Hearings. However, the existing, general agreement regarding reviews called by the LA itself still stands – in all such cases the request for a review must be accompanied by an up-to-date Child's Plan. In such cases, where consideration of compulsory ISS (intensive support service) or a MRC/ISMS (movement restriction condition) is being requested, SCRA will ensure that the review hearing takes place within two weeks.

In cases where a review hearing is required as a result of a child or relevant person request, SCRA will generally give 20 working-days' notice to all parties. Such hearings will not be postponed in the absence of a timely Child's Plan without the agreement of the individual who has made the request.

Every effort should be made to ensure that the Child's Plan for every type of hearing is received at least 7 days before the hearing, so that they can be sent out in good time with the rest of the hearing papers. However, a Child's Plan received later than 7 days before the Hearing will be sent out after the main bundle of papers has gone if the hearing is:

- For some other purpose than an Annual/Hearing-requested review (warrant renewal, for example);
- An Annual/Hearing-requested review, but SCRA have been unable to give SWS 20 working-days' notice of the hearing.

However, no additional papers will be sent out for any hearing if received less than 3 working-days before the Hearing.

Non-disclosure of child's address

In any case where there is a current Hearing order that the child's address should not be disclosed to any person, or where the Hearing are to be asked to consider making such an order, any papers received after the main bundle of papers has been sent out will be retained for distribution (if appropriate) at the time of the Hearing.

Risks to children

Those cases where there are high-level concerns about a child, and a need for a Hearing to consider them, are precisely the cases where a Child's Plan received and distributed in good time is most necessary.

In cases where a Hearing has been cancelled and re-arranged in line with this Protocol, and:

- The LA have concerns about the child's situation that require urgent consideration at a Hearing; and
- The LA believe that the re-arranged Hearing is too far off; and
- The use of emergency powers such as CPO application or Section 72 transfer is likely if the hearing does not take place within the shortest possible timescale

SWS should make a request in writing that the Hearing be brought forward, setting out the reasons why this is required and enclosing an up-to-date Child's Plan.

The SCRA team will make every effort to schedule such hearings as soon as possible, allowing for the statutory seven days' notice to the child and relevant persons.

The Child's Plan itself

A one-page **checklist** of the key components of an effective Child's Plan for an effective Hearing is at the end of this Protocol.

If a Hearing is to be effective, the Child's Plan must contain:

- Information about the child and family background, including a **chronology** of significant events;
- A thorough and integrated multi-agency assessment of risk and need, including relevant **evidence** in support of any Ground for Referral;
- A clear, realistic set of **Goals** and **Outcomes**, with clear, realistic **Actions** to achieve them. It must be clear who is responsible for what and when, including the responsibilities identified for the child and parents/carers. The Plan needs to set out how quickly the Outcomes can realistically be achieved, and what will happen if they are not;
- A clear, evidenced recommendation as to whether **compulsory measures** are necessary to address the child's needs – if not, then why not? If they are recommended, then **why?** Do any of the Actions in the Plan need to become a Condition within the Supervision Requirement, and why? Is a warrant needed, and why? The **parents/carers/child's ability and/or willingness to engage with services sufficiently to address the identified risks and needs for the child must be examined**;
- The child's and parents/carers **views**, age appropriately.
- Three very specific items, if appropriate, as set out in the sections that follow below:
 - (i) information regarding any **proposed placement**;
 - (ii) flagging of a request for **non-disclosure** of the child's address;

(iii) the **statement of the author** of the Child's Plan regarding its **disclosure to the child**.

Further general guidance on how to ensure that the contents of a Child's Plan for a Hearing is fit for purpose can be found in the following documents:

- The SWS internal Guidance on completing the Child's Plan;
- *The Child Protection Policy Guidance*;
- *Giving Effect to SRs and LA Accountability – Highland Protocol (Updated November 2008)*;
- The GIRFEC Pathfinder Guidance;
- The GIRFEC Pathfinder summary Guidance

(i) Conditions re placement – Children's Hearing Rule 20(6)(a) and (b)

As required by legislation, a Hearing can only make a supervision requirement with a condition requiring that the child live with, or stay on a respite basis with, any person who is not a relevant person if the report from the LA includes recommendations regarding:

- The needs of the child;
- The suitability to meet those needs of the place or places in which the child is to reside, **and** of the person or persons who will have charge of or control of the child;

And

- The LA have confirmed that they have carried out the procedures and gathered the information described in regulation 15 of the Fostering of Children (Scotland) Regulations 1996.

Where such a placement is under consideration, the Child's Plan must comply with this legislation, and must include:

- A clear statement confirming that Regulation 15 has been complied with (including for any kinship care placement where the carer is not yet a relevant person); and
- Clear assessment of and recommendations regarding the needs of the child and the suitability of both the place and the carers to meet those needs (in the section 'what I need from people who look after me');
- In every such case where it is a foster placement that is recommended, an up-to-date fostering and adoption team profile sheet must be provided with the Child's Plan.

(ii) Non-disclosure cases – Section 70(6) of the Children (Scotland) Act

In any case where the LA are recommending that the hearing make an order for non-disclosure of a child's address to a person or persons, or where such an order is already in place, it is crucial that the following steps are taken to ensure the safety of the child, and fairness to all parties.

- The submitted Child's Plan must be in a form that the LA are content for all parties to see – it will be the Child's Plan that is sent out to all parties for the hearing, and all sensitive material that the LA will be asking not to be disclosed should be removed from it. The Child's Plan must still contain sufficient anonymised information to enable the Hearing to make a decision regarding the placement;
- The Plan must make it absolutely clear, on its standard front cover-sheet, that this is a case where the LA are requesting non-disclosure – the child's address must be listed as 'not to be disclosed', and the section 'it is necessary to withhold the following details from the report' must be completed.
- That section of the report, and the reasons section immediately after it must:

- identify the person/people/class of persons to whom it is recommended that the child's address is not disclosed;
- Identify clearly the level of non-disclosure requested (eg, is it simply the address of the placement, or additionally the names of the carers, school attended, etc);
- Contain a clear analysis of why it is that a non-disclosure order is being recommended in those terms, and the impact that disclosure might have on the child or others;
- The up-to-date fostering and adoption team profile sheet should be provided as a separate document and marked clearly at the top in bold, underlined, capitals - **'REQUEST FOR NON-DISCLOSURE: FOR REPORTER ONLY'**

It will then be for the Hearing to make an informed decision as to whether to order non-disclosure, and in what terms.

(iii) Statement of Report Writer

Any Child's Plan for a Hearing must contain a completed 'Statement of Report Writer' form, regarding disclosure of the report to the child. There is a presumption that children aged 12 or over are usually entitled to see their own Plan. However, in any case where the Statement has not been completed, SCRA cannot provide the child with a copy.

If the author of the Plan for a child aged 12 or over is indicating that parts of that Plan should not be provided to the child, the author should both provide the Statement and contact the Reporter to discuss the case.

SCRA will no-longer 'chase' these forms when they have not been completed and submitted.

Monitoring

The Highland Council Head of Children's Services and the Authority Reporter will be jointly responsible for monitoring the impact of the Protocol. They will do so on the basis of the following information:

- Both SCRA and Highland SWS will keep and collate all notices of scheduled hearings postponed under this protocol;
- Both SCRA and SWS will keep a record of all such hearings where the LA then go on to request that the re-arranged hearing be moved forward given the grave circumstances of the case;
- SWS will ensure that the systems used within teams allow for monitoring of the proportion of Annual/hearing-requested review hearing reports that are sent in 7 days before the hearing (as agreed in 2006 under the *Protocol re e-mail transmission and receipt of reports in Highland*);
- Highland SWS will maintain a record of annual and hearing-requested reviews for which less than 20 working-days' notice is received;
- With the papers for every hearing, panel members will be provided with a feedback form for comment on how effective the Plan has been. All completed forms will be collated by SCRA and then evaluated. Feedback forms will also be provided for Hearings held during one week in November, before the rollout commences.
- On five occasions, all scheduled hearings over a one-week period will be evaluated to determine in what proportion of cases the different elements of this Protocol were complied with:

- One week in November 2008 (before the rollout);
- One week in February 2009 (INBS);
- One week in March 2009 (INBS and R&C, S&L);
- One week in April 2009;
- One week in May 2009.

Reporting

The Head of Children's Services and Authority Reporter will report on progress to:

- The Child Protection Lead Officers Group and Youth Justice Strategy Group;
- The Highland Panel Chair;
- The relevant LA teams;
- The SCRA Highland team, and SCRA Reporter Manager, North Region;
- Others as appropriate.

Signed:

Head of Children's Services, Highland Council

Authority Reporter, SCRA, Highland

Chair of the Children's Panel, Highland

PLANS FOR HEARINGS CHECKLIST - the essentials for an effective hearing:

Procedural Specifics:

- One Child's Plan** – One up-to-date Plan, without appended historic Plans;
- Placement recommendation** – Are you recommending a condition of residence/respite with a person who is not a relevant person? Need to show that place and carers meet the child's needs. Need to confirm that Regulation 15 of The Fostering of Children (Scotland) Regulations met;
- Foster carers profile sheet** – Is that placement/respite with foster-carers? Need to also provide up-to-date Fostering and Adoption Team profile form with the Plan. Need bold headline on form 'REQUEST FOR NON-DISCLOSURE: FOR REPORTER ONLY' if non-disclosure is requested;
- Non-disclosure of child's address** – Are you recommending non-disclosure or is an order already in place? First page of report must be clear that 'address not to be disclosed', with good reasons. The report must not contain the address, and must be in a form that you believe can safely be sent to all parties;
- Statement of Report Writer** – Should this Plan be sent to the child? The completed Statement of Report Writer form must be sent with the Plan.

Professional Basics:

- Chronology** – Need information about the child and family background, including a chronology of significant events;
- Assessment/Evidence** – Need a thorough and integrated multi-agency assessment of risk and need, including relevant evidence in support of any Ground for Referral;
- Goals/Outcomes/Actions** – Need a clear, realistic set of Goals and Outcomes, with clear, realistic Actions to achieve them. It must be clear who is responsible for what and when, including the responsibilities identified for the child and parents/carers. The Plan needs to set out how quickly the Outcomes can realistically be achieved, and what will happen if they are not;
- Why compulsion?** – Need a clear, evidenced recommendation as to whether compulsory measures are necessary to address the child's needs – if not, then why not? If they are recommended, then why? Do any of the Actions in the Plan need to become a Condition within the Supervision Requirement, and why? Is a warrant needed, and why? The parents/carers/child's ability and/or willingness to engage with services sufficiently to address the identified risks and needs for the child must be examined;
- Views of child/parents/carers** – Need the child's and parents/carers views, age appropriately. Over and above this information within the Plan, encourage the child to complete the Having Your Say form, and make sure it gets through to the Reporter.