



YOUNG PEOPLE & PARENTS' VIEWS ON PRIVACY AND HOW THIS AFFECTS THEIR PARTICIPATION IN THE CHILDREN'S HEARINGS SYSTEM

Policy Briefing
November 2020





INTRODUCTION

What we wanted to find out

Privacy and confidentiality in the Children's Hearings System have always been paramount. However, anecdotally it was felt that more work needed to be done to ensure people's voices are respected and treated in confidence. In order to fully understand the relationship between privacy and confidentiality in the Children's Hearings System, this research explored three broad questions:

- How privacy and confidentiality impact on the participation of young people and their parents and carers in the Children's Hearings System,
- What is the relationship between advocacy and privacy and confidentiality,
- And what solutions could be found to help young people and their parents and carers be heard and involved in decision making.

Why this is important and background to the research

The Children's Hearings (Scotland) Act 2011 and the Children and Young People (Scotland) Act 2014 brought about the most significant change in the Children's Hearings System in Scotland since its inception, and it is essential we continue to listen and learn how we can do things more efficiently. For some time, SCRA and partners have been committed to modernising how things are done in the Children's Hearings System, particularly through the system-wide Digital Improvement Programme. SCRA was, therefore, keen to find out if technology could aid participation in the Hearings System. As a Non-Departmental Public Body, SCRA is required to adhere to the Scottish Government's Digital First Service Standards, which require SCRA to work with its service users (i.e. children and their families) on any digital developments.

SCRA and partners continually strive to make Children's Hearings proceedings more participative and child-friendly, with improvements being informed by the 'Next Steps to Better Hearings' research¹ and subsequent system-wide Better Hearings Improvement Programme. These, alongside the Digital Improvement Programme, led SCRA to commit to better understanding how young people and parents/carers view privacy and confidentiality and how this can impact on their ability to participate in Children's Hearings proceedings.

What we did

Prior to commissioning this research, SCRA worked with Who Cares? Scotland to conduct focus groups with young people who are care and Hearings-experienced, on digital participation. Young people were asked what tools and/or digital access would support more effective participation. In every group, concerns around privacy and confidentiality were highlighted as key to participation. To explore this in depth, SCRA commissioned Who Cares? Scotland to carry out research on young people and parents' views on privacy and how this affects participation in the Children's Hearings System.

¹ SCRA (2016) *The Next Steps Towards Better Hearings* <https://www.chip-partnership.co.uk/wp-content/uploads/2016/10/Better-Hearings-Research-Report-2016.pdf>



Findings: what is already known

We conducted a literature review on privacy and confidentiality and found five key themes:

- There is a clear difference in the concepts of 'data privacy' (personal information) and 'social privacy' (information about someone's thoughts, feelings, relationships and views).
- A systemic dependence on adults to provide methods to participate and to uphold rights to privacy is prevalent in formal proceedings.
- The current practice of information sharing within the statutory context of child protection can conflict with children and families' understanding of their rights to privacy.
- Advocacy has long been seen as a vehicle of ensuring effective participation of children and young people in formal proceedings.
- Concerns about privacy and confidentiality, and advocacy relationships, are viewed in isolation from the wider family context.

Findings: what you told us

These themes, refined by the experience and expertise of Who Cares? Scotland's Advocacy and Youth Workers, informed our research approach to engaging young people, their parents and carers through surveys, focus groups and interviews.

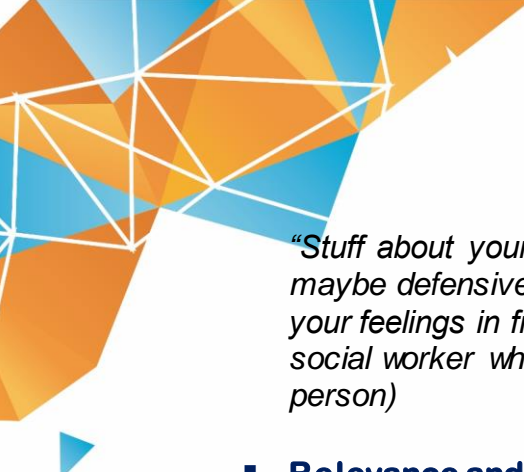
Overall, 129 people took part in this research:

- Survey - 85 children, young people and adults with experience of the Hearings System as children; and 25 parents and carers with experience of the Hearings System as adults.
- Three focus groups (Glasgow, Edinburgh, Inverness) involving 11 participants: 8 young people and 3 parents or carers.
- Eight one-to-one interviews (3 with parents or carers, 5 with young people) each lasting between 40 minutes and one hour and forty minutes.

The survey, focus groups and interviews produced over 100 pages of transcripts, field notes and survey responses which we analysed to understand the links between privacy and participation in the Children's Hearings System. We summarised what you told us under the following themes:

- **What is Private?**

There is a clear delineation between the idea of data privacy and social privacy. For young people, information related to their social life and lifestyle appears to be more private than that related to their personal data. That is why discussing social information at Children's Hearings is seen a barrier to young people's participation. Indeed, 42% to 53% of respondents said their social information should be kept to their closest circle or only to themselves, compared with what 20% to 34% respondents said about their personal data.



“Stuff about your relationships and your feelings – as a young person, you’re maybe defensive about stuff like that, because of the intensity of being asked your feelings in front of your parent by people you don’t know and in front of the social worker who never asked you your feelings before you went in.” (young person)

▪ **Relevance and accuracy**

Participants felt that not all information discussed or presented at Children’s Hearings was either relevant to the matter at hand or, indeed, accurate. Over half of parents and carers and 40% of young people felt this to be the case and that this unnecessary and inaccurate information hindered their involvement in Children’s Hearings.

“What’s the point going through history? It was more look at the things that are happening just now and why these decisions are being made for now? Not for the things that happened in the past, and it was like why are you bringing up things [that’s] only going to cause arguments with your dad and the social worker.” (young person)

▪ **Relationships**

In looking at who young people and parents/carers trust in their lives, who they go to for support and who they feel they can be honest with - the quality of relationships and trust were seen as the key factor . In fact, consistency in relationships was seen as key in ensuring privacy and effective participation in the Children’s Hearings System.

“Privacy and confidentiality are, in a way, just other words for trust: trusting someone with your personal information.” (young person)

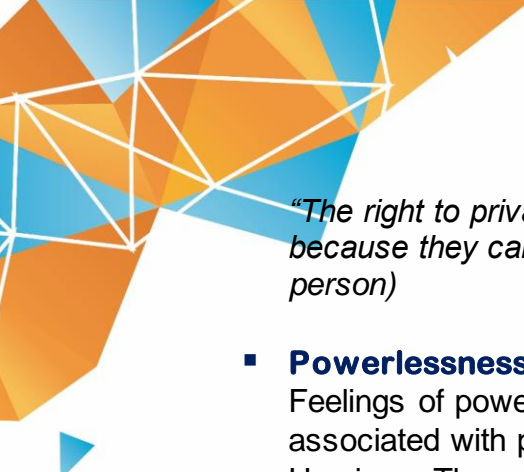
▪ **Sharing views**

Participants perceived that, during Children’s Hearings, their views tended to be overlooked in favour of those of professionals. In this sense, they felt that the conditions necessary for their effective participation to occur were not being met.

“[...] you’re expected to talk to 3 different people you barely know and ask questions that are really personal, but at the same time, you don’t get asked a lot of questions either. It’s sort of like “we’ll come to you last” as it’s a tick box exercise that we need to have spoken to the child.” (young person)

▪ **Control**

Strikingly, three quarters of parents and carers and half of young people felt they had very little or no control over the information which was shared during Children’s Hearings proceedings. Lack of control over what and how information was shared was one of seen as one of the key stumbling blocks in effective participation before, during and after Children’s Hearings.



“The right to privacy is taken away from you and given to your social worker, because they can decide what’s shared and what’s not shared.” (young person)

▪ **Powerlessness and fear**

Feelings of powerlessness and fear were the most influential emotions associated with participants’ ability to be effectively involved in Children’s Hearings. These emotions were often attributed to:

- Lack of understanding
- Lack of opportunity to participate
- Fear of consequences
- Limited access to information

“There was no point in me talking, because it’s not going to change anything. The social worker makes the recommendation, and the panel usually just goes with that, so what’s the point in me recommending something that’s not ever going to happen?” (young person)

▪ **Advocacy**

Advocacy is generally seen as helpful in rebalancing power dynamics in Children’s Hearings and creating an opportunity to be fully involved in these formal processes. However, it is not consistently available across Scotland despite high levels of trust towards Advocacy Workers amongst young people, parents and carers.

“I am capable of expressing my views with the help of an advocate and also my child with the help of an advocate” (parent or carer).

Recommendations: what we need to do

Over one hundred young people, parents and carers told us that the way Children’s Hearings are currently held needs to change to ensure that they can meaningfully and effectively participate in them. The findings of this research found four areas that need to be considered by partners in the Children’s Hearings System, these are:\

- People involved in Hearings proceedings
- Being heard
- Control and
- Advocacy

Recommendations underpinning each of these areas are listed below.

“People” recommendations

▪ **Knowing who attends**

Ensure children, young people and parents know who will be in attendance and what their roles are.



- **Minimise attendees**

Keep the number of people at Children's Hearings to minimum

- **Consistency of attendees**

Ensure those involved remain consistent throughout a family's journey through the Children's Hearing System

- **Getting to know Children's Panel Members**

Share an informal brief to tell everyone of each Panel Member's background and interests.

- **A trusted person**

Ensure young people and parents are aware of their right to bring a trusted person of their choosing along with them to provide support.

- **A respectful environment**

Ensure the environment and atmosphere of a Children's Hearing is respectful, kind and compassionate towards those who are involved.

“Being Heard” recommendations

- **Fostering understanding**

Ensure children, young people, their parents and carers are fully aware of the process and the possible outcomes of the Children's Hearing in a way that they are able to easily understand.

- **Asking questions**

Create space for participants to ask questions and to have anything they do not understand clarified before, during and after Children's Hearing.

- **Evening and weekend hearings**

Consider arranging Children's Hearings in evenings and weekends to accommodate school and work commitments.

- **Speaking to the Panel Members alone**

Offer all children and young people explicitly the chance to speak to Panel Members either alone or with their trusted person.

- **Challenging relationships**

Be aware of the relationships and dynamics that might exist, and the effect these can have on participation, especially between young people, their parents, carers and social workers.

- **Providing views: choice & positivity**

Ensure the methods by which a child, young person, parent or carer provides their views in advance of a Hearing, are ones they are comfortable with and are of their choosing

“Control” recommendations

- **Involvement in writing reports**

Make sure young people and their parents are involved, where possible and safe, in the writing of reports, with clear and obvious sections available for their comments and views.



- **Confidentiality of private information**

Introduce a traffic light system which allows all participants and professionals to know what information is confidential and what is not. Ensure access to information is limited and on a strict needs-must basis.

- **Agreement to share information**

Put a system in place which allows young people, their parents and carers to control what information is shared and why.

“Advocacy” recommendations

- **Access to advocacy**

Offer advocacy to all children, young people and parents at the point of becoming involved in the Children’s Hearings System.

- **Time given to build a trusting relationship**

Ensure appropriate time is given to build advocacy relationships.

- **Knowledge of additional support needs**

Provide training, guidance and resources to Advocacy Workers on how to best support and give voice to children, young people and parents with additional support needs.

SCRA response

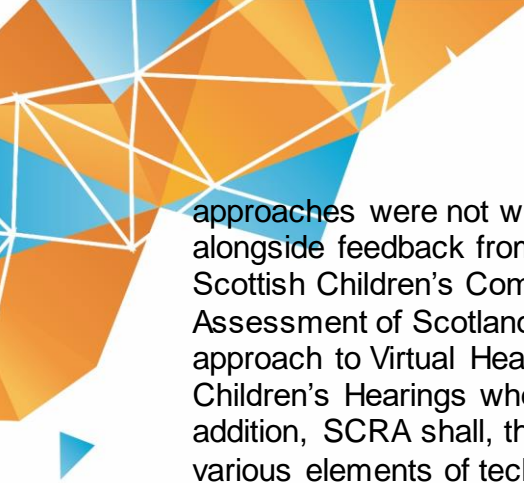
The findings of this research supports those of the Independent Care Review², the Better Hearings Improvement Programme³ and SCRA’s Corporate Parenting Plan⁴. By sharing the findings and recommendations of this research with SCRA’s partners in the Children’s Hearings System including Children’s Hearings Scotland and social work, we will ensure that the recommendations of this study, alongside those of the Independent Care Review and the Better Hearings Improvement Programme are embedded system-wide within the Hearings System. Although SCRA is unable to accept the recommendation to put ‘a system in place which allows young people, their parents and carers to control what information is shared and why’ as it conflicts with our statutory duties and responsibilities, we will work with partners to ensure that the information shared is up-to-date, accurate and relevant and that children, young people and their families are aware of and understand what information will be shared and why during Children’s Hearings proceedings.

Whilst technology was not a strong theme identified in this study, there were individual mentions of digital solutions which could be useful to resolve some of the issues identified, such as the use of WhatsApp and text message. In the time since this research was conducted, the global COVID-19 pandemic required the Hearings System to adapt significantly to ensure SCRA carried out its statutory function during a time where physical Hearings were impossible to ensure Scotland’s most vulnerable children were protected from harm. Initially, SCRA moved to a model of Virtual Hearings and the electronic transmission of Hearing papers. These

² www.carereview.scot

³ www.chip-partnership.co.uk

⁴ SCRA (2020) SCRA’s Corporate Parenting Plan 2020-2023 <https://www.scra.gov.uk/wp-content/uploads/2020/05/Corporate-Parenting-Plan-2020-23.pdf>



approaches were not without their challenges and the findings of this study, alongside feedback from those who have participated in Virtual Hearings⁵ ⁶ and the Scottish Children’s Commissioner’s Independent Children’s Rights Impact Assessment of Scotland’s response to COVID-19⁷, will be used to reflect on SCRA’s approach to Virtual Hearings as well as the development of a future model for Children’s Hearings where physical attendance is not possible and/or appropriate. In addition, SCRA shall, through its Digital Improvement Programme, explore the various elements of technology that could be offered to improve participation in Hearings proceedings and address the concerns of children, young people and their families around privacy and confidentiality.

Information on your rights

Information on your rights in the Children’s Hearings System can be found at www.scra.gov.uk or www.sclc.org.uk. Information on how to access the information SCRA holds about you can be found at www.scra.gov.uk.

Tell us what you think

If you would like to contribute your views to the ongoing discussion around privacy, confidentiality, participation or digital improvement in the Children’s Hearings System please contact Head of Strategy & Organisational Development, Lisa Bennett at lisa.bennett@scra.gov.uk.

⁵ SCRA (2020) *SCRA External Survey on Feedback from Participants at Virtual Hearings (July 2020)*
<https://www.scra.gov.uk/wp-content/uploads/2020/07/SCRA-External-Feedback-on-Virtual-Hearings-06.07.20.pdf>

⁶ CELCIS (2020) *Experiences of virtual Children’s Hearings: A rapid consultation*
https://www.celcis.org/files/6815/9646/6463/Virtual_Childrens_Hearings_Report_3rd_August_2020.pdf

⁷ CYPCS (2020) *Independent Children’s Rights Impact Assessment on the Response to Covid-19 in Scotland*
<https://cypcs.org.uk/wpcypcs/wp-content/uploads/2020/07/independent-cria.pdf>