

AGENDA ITEM No. 10

To: SOCIAL WORK COMMITTEE	Subject: CONSULTATION BY NCH SCOTLAND ON THE FUTURE OF THE CHILDRENS HEARING SYSTEM "WHERE IS KILBRANDON NOW?"
From: DIRECTOR OF SOCIAL WORK	
Date: 28 AUGUST 2003 Ref: JD/RR/LG	

1. PURPOSE OF REPORT / INTRODUCTION

- 1.1 To advise Committee and seek homologation of comments by North Lanarkshire Council to the NCH Inquiry into the future of the Children's Hearing systems in the 21st Century.

2. BACKGROUND

- 2.1. NCH Scotland, in partnership with Stirling Council, is holding an Inquiry into the future of the Children's Hearing System on 5 September 2003 in the Council Chambers in Stirling.
- 2.2. As part of this Inquiry, evidence has been sought from a wide range of agencies, including local authorities. Young people will also be participating in the Inquiry.
- 2.3. The Inquiry is being held because the Children's Hearing system has come under increasing pressure and scrutiny in recent years. It has been perceived in some parts of the media as being too soft on crime, while others consider that services for children in trouble must be improved to make the Hearing System effective. It has been criticised for the lack of legal representation for young people and families, for inconsistent decision making and for poor resourcing.
- 2.4. There is considerable debate at present about how to tackle youth crime, and about how the Children's Hearing System and adult Criminal Justice services, including Youth Courts, should inter-relate.
- 2.5. The Inquiry will publish a report including recommendations which will be presented early next year to the Scottish Executive.
- 2.6. The Hearing System was established by the Social Work (Scotland Act) of 1968, in response to a report by Lord Kilbrandon, a senior Scottish Law Lord. The Act abolished juvenile courts for children under 16 years. It replaced them with lay hearings to consider care and justice issues and to decide what should be done, up to and including removing young people from home to a residential school or secure establishment.

The reform was widely welcomed at the time and it was hoped marked a turning away from 19th Century thinking which often artificially differentiated between children and young people in trouble and in need. It was revolutionary in bringing together both responsibility for dealing with care and justice issues in the one forum.

3. PROPOSALS / CONSIDERATIONS

- 3.1. It is recommended that in view of the important role that Childrens Hearings play in our communities, that the Council should submit comment to the Inquiry.
- 3.2. The comments include responses to the following questions posed by NCH Scotland, covering the aspects considered to be of greatest importance.
- Who are the young people who offend?
 - Who is responsible for youth crime?
 - How much is it the young people themselves and the communities they come from?
 - Does the Scottish Hearing System work?
 - Do Youth Courts work better?
 - What happens in the rest of the UK and other countries? Does it work?
 - What are the costs of taking action? And the costs of not acting?
 - What do young people think causes crime and what is the best way to tackle offenders?
- 3.3. The comments conclude that the Children's Hearing system does have weaknesses, such as under resourcing, which require to be addressed. However, the Children's Hearing system, with its holistic approach, also has proven strengths and value for vulnerable children and young people.
- 3.4. North Lanarkshire is in the pilot area for the Youth Court, and its value and impact will be formally evaluated.
- 3.5. Within North Lanarkshire there is a commitment to retaining the particular strengths of the Hearing System such as its ability to consider the needs of the most vulnerable young people, to ensure that young people and families are supported adequately and members of the community (as panel members) taking responsibility for children within the community.
- 3.6. Within North Lanarkshire there is a commitment to addressing youth crime and youth justice by developing a range of interventions to tackle this issue, including the piloting of the Youth Court and related interventions, previously reported to Committee.
- 3.7. North Lanarkshire is committed to developing a corporate approach to its work with children and young people to ensure that children and young people are adequately supported and valued within their families and communities in order to actively prevent and tackle youth crime.
- 3.8. North Lanarkshire Youth Justice Forum, a sub-group of the Children's Services Strategy Group, has representation from a range of Council Departments and other agencies and is currently undertaking an audit of youth justice services which will inform the basis of a strategy for youth justice services in North Lanarkshire.
- 3.9. The importance of the involvement of mainstream universal services is recognised as crucial in progressing the social inclusion agenda.

4. FINANCIAL / PERSONNEL / LEGAL / POLICY IMPLICATIONS

- 4.1. There are no implications for North Lanarkshire Council. The purpose of this report is to advise Committee of the Inquiry and request homologation of the comments to be submitted.

5. RECOMMENDATIONS

5.1. Committee is asked to:

- (i) Agree homologation of the evidence to be submitted to the Inquiry;
- (ii) Request a further report when the findings of the Inquiry are published;
- (iii) otherwise note the contents of the report;
- (iv) A copy of the briefing note will be available in the Members Library.



Jim Dickie
Director of Social Work
30 July 2003

*For further information on this report please contact Susan Devlin, Manager, Children & Families & Justice
TEL: (01698 332032)*



**North Lanarkshire Council
Social Work Department**

Response to NCH Inquiry "Where is Kilbrandon Now?"

The following comments were submitted by North Lanarkshire Council Social Work Department as a response to questions posed by the NCH Inquiry. The order of the comments follows the specific questions set by the Inquiry.

Who are the young people who offend and what are their circumstances?

Contrary to media portrayals only a small percentage of young people are involved in offending behaviour. However the persistent nature of some youth offending undoubtedly causes alarm and controversy both in local communities and at a national level. We know from research that young people, particularly males whose average age is 14, are the most likely to offend. We also know that young people who truant from school, or are excluded from education, are more likely to offend than young people who are retained within mainstream educational provision. Poverty, disadvantage, social exclusion are primary contributory factors to offending behaviour.

It is important also to acknowledge that some young women offend and it is also more likely that these young women will have an accelerated path more quickly through the statutory systems than young men. The nature of their offending also merits consideration and analysis in relation to the targeting of resources and interventions.

Who is responsible for Youth Crime?

All agencies involved with young people and their families have a responsibility for addressing youth crime and its implications. Local authorities including Social Work, Education and Culture and Leisure Services, along with Police and Health Services are key players. Community organisations have demonstrated strong interest in addressing the problems created by youth crime and in responding to the needs of young people in their areas. Voluntary organisations at a local and national level have initiated creative and effective responses to the needs and deeds of young people involved in youth crime.

How much is it the young people themselves and the communities they come from?

It is important to acknowledge the responsibility for offending behaviour which lies with young people themselves. However it is too simplistic to say responsibility lies solely with children and young people who offend. Children and young people develop in an environment and in a context in which substantial risk factors exist. Young people involved in offending often have poor social, emotional and intellectual development and have a history of being excluded from mainstream services such as education and leisure services. They may have little or no ambition in terms of career, and may be involved in drug and/or alcohol misuse. They often come together with other young people in similar circumstances and therefore have difficulty in breaking away from patterns of offending behaviour.

The communities in which young offenders live have often been stigmatised and under resourced in terms of responses to youth crime. Limited investment in creative and effective responses to young people's needs and deeds compound anti-social patterns of behaviour. Impoverished and marginalised communities have little capacity to respond effectively to entrenched patterns of criminal behaviour.

However communities are crucial to the effective tackling of youth offending. Community planning, now a statutory duty on public agencies, must pursue social inclusion and social justice principles by ensuring that mainstream services give positive priority to targeting vulnerable young people, including those who are involved in offending behaviour.

Does the Scottish Hearing System work?

North Lanarkshire is committed to the approach of the Children's Hearing System. Its integrated approach to young people's needs and deeds is considerably more effective than traditional court environments. The involvement of lay members brings added value to the operation of the system.

The Children's Hearing System takes a holistic view of the young person, giving consideration both to care and control issues in the young person's life.

There are however areas in the operation of the Children's Hearing System which could profitably be improved.

- ❑ Extended time delays between reporting of offences and convening of a hearing.
- ❑ Public perception of the Children's Hearing System as a "soft option" undermines the hearings operation and purpose. Strong public commitment by the Executive emphasising the systems strengths and uniqueness is required.
- ❑ Panel members training requires substantial and continuing development including exposure to the perspectives and experience of Social Work and other crucial groups of professionals.
- ❑ The Children Scotland Act (1995) established the role of "corporate parent" for local authorities. Further investment is required in promoting understanding of the content of this responsibility within local authorities and between local authorities and children's hearing members.
- ❑ The informality and confidentiality of hearings is a significant strength. However there is growing concern for the need for representation for young people and families in the hearing setting. Developments which promote access to reports and representation are to be welcomed but it would be important to avoid hearings becoming adversarial in the sense of a court process and careful monitoring of these new developments is required.
- ❑ The Hearing system relies upon the ability of the local authority Social Work staff to undertake the assessment and care management function in relation to children and young offender services. In addition they along with other statutory and voluntary organisations in providing the support programmes to children and their families. The crisis in recent years with the recruitment and retention of staff has had serious consequences for the delivery of these services and some of this has undoubtedly spilled over onto the perception of the effectiveness of the hearing system.

Do Youth Courts work better?

Youth Courts in Scotland are in their infancy with a pilot court at Hamilton Sheriff Court involving both North and South Lanarkshire Councils. No definitive judgement can as yet be made on their effectiveness. The Youth Court in effect provides a faster process for young people who meet the criteria and the dedicated involvement of a Sheriff should help to promote consistency in the system.

Youth Courts may be viewed as more suited to public expectations since they are more closely aligned with the adult court system. It remains to be seen whether this approach is more effective than the children's hearing system.

Investment in reparation, mediation and restorative justice is an important element in the disposals available to courts and hearings. Public and victims of crime need to have confidence that there is a major investment in keeping communities safe and working with young people who offend to face up to their victims wherever this is possible. It is crucial that restorative justice services are visible in communities.

What happens in the rest of the UK and other countries? Does it work?

The children's hearing system is unique to Scotland and is admired by other jurisdictions due to its integrated approach to care and control issues. The Youth Court system is the approach which has been adopted in England, Wales and Ireland but it is recognised that there are some deficits in their operation and there is a continuing search for structures and approaches which recognise the wide range of young people's needs and deeds.

What are the costs of taking action? And the costs of not acting?

It is essential that the scale and nature of youth crime are set in a rational context. Relatively few young people are involved in significant offending behaviour. The cost of taking action in financial terms appears to be acceptable to the Executive and to Local Authorities, provided the Executive foots the bill. Financial resources do not seem to be unduly restricted. The important question is whether the resources can be invested in effective programmes and in order to secure this policy objective some of the hysteria about youth crime and youth disorder need to be stripped away. It is an unfortunate feature of public policy in the current political administration at the Executive that the theme of "punishment" seems more readily to attract investment than effective interventions involving investment in street youth work or in mainstream youth resources.

Not to act is not an option. Young people are our future and civilised administrations have no alternative but to work to reduce social exclusion and to promote positive options for all young people.

What do young people think causes crime and what is the best way to tackle offenders?

This question raises the issue of how we consult with young people. In the course of a consultation exercise for North Lanarkshire Council's Youth Strategy for young people aged 12-25 years, identified a number of priorities relating to general issues. The points raised highlight a number of social inclusion/justice issues.

- Young people being able to get involved in decisions which affect them
- Issues relating to transport (the lack of affordable and accessible transport for young people, and for young people with disabilities)
- Young people's health and wellbeing
- Community facilities, their cost and how easy it is for young people to use them
- Housing issues for young people
- Young people's training and employment opportunities
- Community safety issues for young people - young people themselves being more likely to be the victims of crime and feeling unsafe

- The young people consulted wished more "joined up" thinking to make services more responsive to their wishes and aspirations. The priority issues form the basis of North Lanarkshire's Youth Strategy.

Conclusion

The operation of the hearing system and the principles in which it was constructed have been undermined, to some extent by stealth, by Executive initiatives which appear to be determined to introduce court based process into the hearing system. The implication is that the hearing system is seen as being ineffective or "soft" on youth offending. There is no evidence to justify these positions and it is essential that they are brought into the open where they can be dealt with in a more constructive basis.

Scotland will undermine and diminish its children's hearing system at the expense of all of us. We need to ensure that we do not have an unquestioning approach to its merits and performance and should be evaluating these in a more systematic way.

The participation of lay members of the community in responding to the needs of young people who require care and control is a profoundly progressive component of our system. We require to ensure that we invest properly in our young people and need to ensure that positive approaches for the wider group of young people in our communities are increased, but that we also address the special requirements of those young people who are excluded and marginalised because of their circumstances or troubled development.

Corporate responsibility across local authorities and other public agencies is still a fairly new and fragile approach and the Executive and other public agencies must ensure that they invest properly in its consolidation.