

## PERTH AND KINROSS COUNCIL

## Lifelong Learning Committee – 31 October 2012

## CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 – AREA SUPPORT TEAM

## Report by Head of Democratic Services

**ABSTRACT**

This report advises the Committee of the replacement of the current Children's Panel Advisory Committees and presents proposals to establish a Joint Tayside Area Support Team with Dundee City and Angus Councils to support the National Convener of Children's Hearings Scotland (CHS).

**1. RECOMMENDATIONS**

1.1 It is recommended that the Lifelong Learning Committee:

- (i) Agrees to the establishment of a Tayside Area Support Team (AST); and
- (ii) Authorises the Chief Executive to finalise the Joint Partnership Agreement with Children's Hearings Scotland in consultation with Dundee City and Angus Councils as set out in Appendix 1 to this report.

**2. BACKGROUND**

2.1 The Children's Hearings (Scotland) Act 2011 introduced significant changes to the way in which the Children's Hearings System will operate. The Scottish Government has set an implementation date of the end of June 2013 for the key provisions in the 2011 Act.

2.2 The 2011 Act significantly changes the way in which Children's Panel members are recruited, inducted, trained, supported, appraised and re-appointed. The key changes are:

- The creation of a national Children's Panel in place of the existing 32 local authority children's panels. Although local panels will continue to exist in all areas.
- The establishment of the National Convener of the Panel to be a figurehead for Panel members and ensure they are consistently supported to a high standard across Scotland.
- A dedicated national body, Children's Hearing Scotland (CHS) to support the Panel and the National Convener.
- The establishment of Area Support Teams (ASTs) – new bodies set up in collaboration with local authorities to aid CHS and the National Convener in the recruitment, selection, training, retention and support of panel members. ASTs will replace the existing Children's Panel Advisory Committees (CPACs).

2.3 The focus for making these changes is to ensure that the hearings system is nationally consistent but locally delivered, and that all hearings are child and young-person centred to allow effective evidence based decisions to be made.

- 2.4 At the end of June 2011, the National Convener published a consultation document regarding the formation of ASTs. In addition to the issue of continued support by local authorities in the current form of the clerk to the CPAC and administrative support, it was proposed that local authorities sign up to a partnership agreement with CHS with the agreement reflecting the locally agreed AST arrangements.
- 2.5 The consultation document suggested the formation of a joint Tayside AST with a dedicated clerk provided by one of the local authorities on a lead authority basis, but jointly funded by the three constituent Councils who would also provide administrative and other support to the AST.
- 2.6 Currently, membership of the Perth and Kinross CPAC is made up of three members appointed by Scottish Ministers, and two elected members appointed by the local authority. The main duties of the CPAC are to recruit members of the Children's Panel and recommend them to Scottish Ministers for appointment or reappointment; to observe Panel members in Hearings, giving them appropriate feedback on their performance, and therefore assume responsibility for quality control; and to offer Scottish Ministers advice from time to time on matters relating to the children's hearings system.
- 2.7 Perth and Kinross Council has no members of staff who are dedicated to providing support to the CPAC Chair, with support being provided by the Democratic Services Manager as Clerk to the CPAC, supported by a Committee Officer. There are other members of staff within the Committee and Members' Services Teams who provide administration and support to the CPAC and Children's Panel Chair.

### **3. DISCUSSIONS WITH CHS, DUNDEE CITY AND ANGUS COUNCILS**

- 3.1 In March 2012, a meeting was arranged by CHS to discuss the National Convener's proposals for a joint Tayside AST. The meeting was attended by officers, CPAC Chairs and Panel chairs from Dundee City, Perth and Kinross and Angus Councils. Although the representatives of Perth and Kinross Council indicated that it would welcome the opportunity to work towards developing a joint AST, the representatives from CHS agreed to meet with each Council individually, as the representatives from Angus and Dundee City Councils indicated a strong preference for stand-alone ASTs.
- 3.2 In May 2012, the Head of Democratic Services and the Clerk to the CPAC met with representatives of CHS. During this discussion it was made clear that Perth and Kinross Council continued to be willing to work towards a joint AST. However, it was recognised that due to the timescales for the implementation of the Act, Perth and Kinross Council would also consider options for establishing a stand-alone AST.
- 3.3 CHS arranged a further meeting with all three Tayside Councils, CPAC and Panel Chairs on 5 September 2012, but unfortunately Dundee City Council was unable to send representatives to the meeting. At the meeting, the Head of Democratic Services acknowledged that given the timescale for developing joint arrangements, work had begun on preparations for a Perth and Kinross stand-

alone AST, but she emphasised that this would not preclude further discussion on considering joint arrangements.

- 3.4 On 25 September 2012, the Minister for Children and Young People, Aileen Campbell MSP, convened a meeting in Edinburgh with elected members and officers from the three Tayside Councils to allow further discussions on the establishment of a joint AST. At this meeting it was agreed that discussion would continue on developing proposals to allow a joint AST to operate.
- 3.5 The functions, roles and responsibilities of ASTs have been set out nationally and these are detailed in the CHS publication entitled “Area Support Teams: Functions, Roles and Responsibilities” which is available via the following link <http://www.childrens-hearings.co.uk/doc/AST%20functions,%20roles%20and%20responsibilities.pdf>
- 3.6 Section 4 of that publication refers to the partnership agreement between CHS and individual or groups of local authorities setting out how each will support the operation of ASTs and the Children’s Panel. A draft joint partnership agreement is attached at Appendix 1. The agreement sets out the legislative background and purpose of the agreement, and details the shared commitment required by each party to provide services to support and administer ASTs.

#### **4. PROPOSALS**

- 4.1 At the meeting on 26 September 2012, the three Tayside Councils developed the following proposals:-
- (a) To establish a Tayside AST which will have responsibility for overseeing the three local ASTs in Angus, Dundee City and Perth and Kinross to ensure adherence and consistency to the national standards and guidance.
  - (b) The membership of these Teams would be similar to that of the current CPACs but would include representatives from the Panel as well.
  - (c) The National Convener will recruit and appoint an Area Convener for the Tayside AST and three Depute Conveners, one for each local area.
  - (d) The three local ASTs would report via their Deputes to the Area Convener of the Tayside AST.
  - (e) The operational structure and administrative support provided to each local AST will be determined by (1) each local authority in consultation with the Area Convener and (2) the respective local Depute Convener. It is anticipated that a dedicated clerk to the Tayside AST would be recruited by a lead authority - the cost would be split between the three authorities; and within Perth and Kinross Council there will be dedicated support for the local AST.

#### **5. CONSULTATION**

The Chair of the Perth and Kinross Children’s Panel Advisory Committee, the Chair of the Perth and Kinross Children’s Panel, the Executive Director

(Education and Children's Services) and the Chief Social Work Officer have been consulted throughout this process and are aware of the proposals contained in this report.

## **6. RESOURCE IMPLICATIONS**

- 6.1 Although no additional funding is being made available to local authorities, it is understood that the existing annual grant from Scottish Government for panel member training and expenses will continue to be paid. From June 2013, CHS will pay for future panel member expenses and have stated that national/core training would be delivered and funded centrally, with local training being funded by the local authorities and arranged by the relevant AST. The current costs associated with these activities are £44,000 per year.
- 6.2 From June 2013, local authorities will no longer be involved in appointing Safeguarders as the Scottish Government has contracted CHILDREN 1<sup>st</sup> to undertake the management and operation of a national Safeguarders Panel. The assurances from Scottish Government to date have been that the budgets currently held by Councils to fund Safeguarders would not be removed. The current annual budget for Safeguarders is £37,000, but as expenditure is demand-led, annual expenditure regularly exceeds this figure.
- 6.3 Whilst the retention of these elements of funding will support the provision of a dedicated resource to support the AST as referred to above, funding will need to be retained to meet the costs associated with the legal charges for adoption and permanence orders, curators ad litem and also expenses for parents etc attending children's hearings. The costs associated with these areas are approximately £20,000 per year.
- 6.4 As discussions with Angus and Dundee City Councils are ongoing, the level of contribution by Perth and Kinross Council to the cost of a dedicated Clerk can only be estimated at around £10,000, with locally dedicated administrative support for the Perth and Kinross AST currently estimated to be £25,000. Accordingly, there may be potential for the Council to make a saving in this area for the financial year 2013/14, and this will be clarified during the budget process.

## **7. COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012**

- 7.1 The Council's Corporate Plan 2009-2012 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:-
- (i) A Safe, Secure and Welcoming Environment
  - (ii) Healthy, Caring Communities
  - (iii) A Prosperous, Sustainable and Inclusive Economy
  - (iv) Educated, Responsible and Informed Citizens
  - (v) Confident, Active and Inclusive Communities

This report relates to objectives (i)

## 8. EQUALITIES IMPACT ASSESSMENT (EqIA)

- 8.1 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies
- 8.2 The Children's Hearings (Scotland) Act 2011 complies with the Equality Act 2010. As detailed in Appendix 1, the finalised partnership agreement will also comply with the Council's relevant obligations under the Equality Act 2010.

## 9. STRATEGIC ENVIRONMENTAL ASSESSMENT

- 9.1 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS).
- 9.2 The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

## 10. CONCLUSION

- 10.1 This report seeks approval to agree to the establishment of a Joint AST for the Tayside area to encourage a consistent level of support to the Children's Panel in the area and support better outcomes for children and young people.

**Gillian Taylor**

Head of Democratic Services

**Note:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

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Council Text Phone Number 01738 442573



## **Children’s Hearings Scotland**

### **X Council**

### **X Council**

### **X Council**

### **Agreement**

1. This Agreement is established between Children’s Hearings Scotland (CHS) and X Council, X Council and X Council (the Councils) under the terms of the Children’s Hearings (Scotland) Act 2011 (the 2011 Act), and relates to the support and administration requirements of the Y Area Support Team, as defined by the 2011 Act.

### Background

2. The 2011 Act makes a number of changes to the children’s hearings system (“the System”) to help ensure that the System is nationally consistent and locally delivered, to ensure that all hearings are child and young person centred and that they make effective, evidence based decisions.
3. The 2011 Act provides for:
  - a new position of National Convener to provide leadership, support and coherence for panel members across Scotland;
  - the establishment of CHS, a new dedicated national body which will provide coherent and consistent support for panel members across Scotland, and support for the National Convener in the exercise of his/her responsibilities;
  - the establishment of a national Children’s Panel to replace the existing 32 local Panels;
  - the establishment of Area Support Teams (ASTs) on a collaborative basis between local authorities and CHS to take local responsibility for the recruitment, selection, training, retention, support and deployment of panel members, and the operation of the System in local areas;
  - appointments to ASTs to be made by the National Convener, key among these will be the Area Convener who will provide leadership and direction to the AST and ensure that it fulfils its responsibilities.
4. The Councils undertake to support the operation of the Y AST, panel members and the System as set out in this Agreement.

### **Purpose of the Agreement**

5. This Agreement is established to record the commitment of CHS and the Councils to support:
  - the System in Scotland, and the national children’s panel and underpinning framework of standards, in line with the terms of this Agreement

- administration of the Y AST by X Council through the provision of the services of an AST clerk along with adequate accommodation, office and administration support provided by the Councils as required for the effective operation of the Y AST
  - the national children's panel within the Y AST area through the Councils providing accommodation, administrative support and resources which will assist the AST and CHS with recruitment and retention of sufficient panel and AST members at the area level
  - the System in the Y AST area by CHS providing continuity of funding, effective support to ASTs, partner engagement and consultation, and information, advice and guidance in line with agreed national standards
6. **This Agreement is intended to underpin a shared commitment to the System by establishing a clear, uniform understanding across Scotland of the services to be provided for the support and administration of ASTs, and to clarify the commitment of the parties involved to the provision of these services.**

### **Duration**

7. This Agreement shall commence on the 24 June 2013 **and unless the Parties agree otherwise, shall subsist until 30<sup>th</sup> June 2017**. The Parties shall review this Agreement annually to agree the services to be provided during the following year.

### **Principles**

8. The System, as revised under the terms of the 2011 Act, is based on well-established principles which place the child at the centre of our concerns, requiring the operation of the Hearing System to be fair and responsive and to be administered effectively and efficiently. Eight standards for the operation of the System have been set out in a national standards framework (the National Standards):
1. Children are at the centre of everything we do
  2. Panel members are well equipped and supported to undertake their role
  3. Panel member practice is consistent across Scotland
  4. Every children's hearing is managed fairly and effectively
  5. Every children's hearing makes decisions based on sound reasons in the best interests of the child or child or young person
  6. AST members are well equipped and supported to undertake their role
  7. Communication and information sharing across the Children's Panel, ASTs and CHS is clear, appropriate and purposeful
  8. Functions, roles and responsibilities are clearly defined and understood within the System
9. It is acknowledged that these standards will only be achieved through a shared commitment by the National Convener, CHS, Y ASTs, panel members and local authority partners. The effective operation of the Y AST is central to the achievement of these



standards, and in this regard, the contribution by the Y AST clerk and his/her team is of critical importance.

## **Service Commitment**

### Services to support the Y AST

#### 10. CHS will provide:

- I. Continuity of funding in relation to
  - a. the recruitment, appointment, training and assessment of panel members
  - b. the recruitment, appointment, training and assessment of Y AST members
  - c. the advice, guidance and information required to enable Y AST members to fulfil their responsibilities
  - d. the payment of expenses for all volunteers including panel members, the Area Convener and Y AST members in accordance with the national scheme of expenses to be prepared and updated from time to time by CHS
  - e. the payment of Protection of Vulnerable Groups (PVG) fees for all panel members and AST members.
  
- II. Support and training through
  - a. the development of a national training curriculum and delivery to Y AST members and panel members
  - b. localised delivery of training including support and funding to the Y AST training team
  - c. delivery of Panelpal training for the Y AST Clerk and relevant members of their team
  - d. ensuring the National Convener's duty to provide legal and procedural advice for children's hearings is fulfilled and Y AST members have the information they require to effectively support the work of panel members
  - e. fielding day-to-day enquiries from Y AST and providing advice on the role of Y AST members and on any panel member issues that the AST is unable to deal with.
  - f. guiding and monitoring the day to day work of Y AST to make sure that it is in accordance with the National Standards.
  - g. creating systems for the exchange of ideas, learning and best practice between ASTs
  
- III. The learning and development of ASTs through sharing of good practice and effective performance management including
  - a. supporting the National Convener in annual assessment of ASTs and sharing with the Councils any issues arising from the annual reporting process
  - b. providing training, advice and support to AST members in the assessment process
  - c. establishing systems for analysing the activities, performance and impact of ASTs and sharing this information with all relevant partners including the local authority
  
- IV. Support the clerks and their teams through the AST and CHS networks to be established

V. Other ad hoc and incidental support as agreed with the Councils

11. X Council will provide:

- I. A member of staff who is suitably trained, qualified and experienced, to act as the Clerk of the Y AST and specifically to
  - a. provide general administrative and secretarial support to the Area Convener and the Y AST
  - b. organise Y AST meetings, including accommodation, agendas, preparation of reports , including financial reports, and minute taking
  - c. make administrative arrangements enabling the Area Convener to assess Y AST members
  - d. assist the Area Convener with the preparation of reports to the National Convener and the Y AST annual report
  - e. ensure the collection, analysis, reporting and return (where required) of information required for performance and monitoring purposes
  - f. maintain a database of panel member workload and allocation to inform local training and recruitment strategies
  - g. provide administrative support to the panel representatives in the preparation of the panel member rota
  - h. liaise closely with the Area Convener and panel representatives to put in place arrangements to manage changes to the rota and procedures to ensure that panel members are available for emergency hearings, out of office hours and at short notice when required
  - i. maintain up to date records of panel member availability
  - j. work with the Area Convener and Y AST colleagues to ensure the availability of sufficient panel members
  - k. check and process claims for the payment of panel member allowances in keeping with the national scheme of expenses
  - l. work with appropriate CHS staff to prepare expenses budgets and make quarterly reports of expenditure against budget
  - m. respond to telephone and other enquiries in relation to the Y AST or the national children's panel
  - n. support the panel member recruitment and selection process

The Councils will provide

- II. Accommodation and office support and facilities appropriate to support the functions of the Y AST at the current level provided by the respective Councils including
  - a. office support for Y AST meetings
  - b. taking all reasonable steps to provide meeting space for Y AST meetings
  - c. minute taking and secretarial support for Y AST meetings and events

- d. taking all reasonable steps to provide meeting and seminar facilities for local panel member events organised by the Y AST, for example training sessions and information evenings for prospective panel members
- III. Secure IT and office support systems to Council staff as required to allow the proper functioning of the Y AST
  - IV. Other ad hoc and incidental support as agreed in advance with CHS and between the Councils

### **Structure, Personnel and Administration**

- 12. The Y AST is made up of more than one local authority. It is agreed therefore that the appointment of the clerk to the AST and the nomination of support officers will be determined locally by the Councils.
- 13. Once these arrangements have been agreed by local partners, a description of the arrangements and how they will operate, including the names, job titles and contact details of key personnel, will be submitted without delay to the National Convener by the clerk.
- 14. The Area Convener and Y AST members will determine any sub-committee arrangements with local partners and will ensure relevant parties are aware of such arrangements.
- 15. The clerk will also provide the National Convener with a specification of the AST sub committee structure once determined.

### **Disagreements and Conflicts**

- 16. CHS and the Councils agree that when disagreements and conflicts arise about the operation of the AST all efforts will be made to achieve resolution as quickly and expeditiously as possible by the Area Convener and the senior nominated representative of the Councils. When an issue arises where resolution is not achieved locally, the matter shall be referred to the National Convener and the Chief Executives of X Council, X Council and X Council.

### **General**

- 17. In agreeing to work together to support the System and Y AST as set out in this Agreement, both CHS and the Councils acknowledge and will comply with their respective obligations, including but not limited to the following:
  - a. the Freedom of Information (Scotland) Act 2002;
  - b. the Data Protection Act 1998, and
  - c. the Equality Act 2010
- 18. Neither CHS nor the Councils shall disclose to any person any confidential information relating to the other party except in the proper course of its duties.

19. Neither CHS nor the Councils shall issue any publicity (including press announcements) relating to or otherwise reveal or make public any financial or other confidential information in connection with the services provided or the terms of this Agreement without the prior written consent of the other. Neither party will knowingly commit or permit any of its employees, agents or subcontractors to commit any act which might prejudice or damage the reputation of the other.

20. Each Party shall have Employers Liability and Public Liability insurance to cover their respective duties under this Agreement. The level of cover shall be in compliance with all relevant statutory requirements.

Signed on behalf of the X Council

Chief Executive  
Signed on behalf of the X Council

Chief Executive  
Signed on behalf of the X Council

Chief Executive  
Signed on behalf of Children's Hearings Scotland

National Convener

Date