SUBMISSION FROM WEST LOTHIAN COUNCIL

1. On the first question of general principles, the council considers that overall, the Bill should deliver increased quality and consistency for the hearing system, that this will apply across Scotland and that ultimately there will be a better outcome for the children of Scotland. However, a number of further, specific comments are provided:

Section 6: Selection of members of Children’s Hearing

2. In subsection (3) the Bill states that the National Convener ‘may’ select one of the panel members who are sitting to be the chair. This should perhaps read ‘will’ given the current and necessary practice of appointing a chair for each hearing. If this is to be left to the discretion of the panel, then this should be stated within the Bill.

Section 30: Safeguarder panels

3. It is accepted that a local panel of Safeguarders is necessary to allow for the effective delivery of the Safeguarder function within each local authority area. However, the council firmly believes that the recruitment, selection and training of Safeguarders should mirror that for panel members and that there should be consistency and flexibility delivered through the creation of a national panel of Safeguarders, administered by Children’s Hearings Scotland. Appointments to the local Safeguarder panel would be made from the national panel. This would compliment the provisions of subsections (2) and (3). In any event, the use of ‘will’ rather than ‘may’ in subsection (2) will ensure that standards are properly set.

Section 127: Duty on implementation authority to require review

4. There is no longer a set time limit by which a review must be carried out. In subsection (3) a period of time ‘may’ be specified through regulation. This should read ‘will’. This change will not fetter the discretion of ministers as to whether or not to apply a time limit and will ensure that due consideration is given to the welfare of the child.

Section 170: Children’s Hearings - procedural rules

5. To ensure consistency across Scotland, a set of rules and procedures must be created. In subsection (1) the word ‘may’ should be changed to read ‘will.’ The inconsistencies between different local authorities and panels has led to much debate in the past at a local and national level and clear, defined guidance is required, based on best practice and designed around the welfare of the child.

Schedule 1: Paragraph 16 – Procedure

6. The freedom for area support teams to determine their own procedures should explicitly exclude procedures relating to the delivery of the functions under paragraph 13 Area Support Teams: functions. One of
the primary purposes of the Bill is to improve the delivery of business and process of the hearing system. The current inconsistencies in practice by CPAC’s (the equivalent of Area Support Teams) between different local authorities have led to much debate in the past at a local and national level and clear, defined standards are required based on best practice and designed around the welfare of the child.

**Schedule 2: Paragraph 3 – Training**

7. The council is firmly of the opinion that training and monitoring of performance for panel members cannot be optional. It is essential to ensure that panel members are properly trained and that their performance is maximised to ensure the welfare of the child. The word ‘may’ should be replaced with ‘will.’ Further clarification as to performance standards and how to deal with a failure in performance is required within the Bill e.g. reference to paragraph 1 of schedule 2 and in particular sub-paragraphs (3), (4) and 5).

8. On the second question relating to the policy memorandum and financial memorandum accompanying the Bill, the council would comment in general that there is a lack of clarity as to which functions are to be carried out by Children’s Hearings Scotland and which will remain with local authorities. The proposals are at times vague and inconsistent and the associated cost issues are quite unclear. As a result, it is not clear how the stated efficiency savings will actually be achieved.

9. On the third question relating to comments on the consultation the Scottish Government carried out prior to the introduction of the Bill, the council is of the view that as a result of the consultation exercise, a number of positive improvements have been made to the initial draft Bill. These improvements include a change of focus away from criminal justice and back to the welfare of the child. This can only be welcomed.

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