

## Charter 8.4 Joint Reporting to SCRA and COPFS

### Improvement Project Title:

Joint Reporting to SCRA and COPFS – increase retention by Reporter where appropriate to avoid young people entering the adult criminal justice system unnecessarily.

### Executive Sponsor:

Derek McGowan, Chair CJ Group

### Project Lead:

**Name:** Roma Bruce Davies

**Job role & organisation:** Locality Reporter Manager for Grampian, Scottish Children’s Reporter Administration (SCRA)

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### Aim statement:

Increase by 10% the number of 16/17 year olds who are jointly reported to SCRA and COPFS who are offered robust alternatives to entering the statutory system (adult criminal justice system) by 2021.

### Link to Local Outcome Improvement Plan:

Stretch Outcome	Key Drivers	Improvement Project Aim	Key Improvement Measures
<p><b>8. 25% fewer young people (under 18) charged with an offence by 2026</b></p> <p><i>(Baseline data: 965 young people charged in 2015-16; 827 in 2016-17; 698 in 2017/18. A 25% reduction is 175 young people)</i></p>	<p>8.1 Young people receive the right help at the right time through provision of a strong universal offer alongside availability of multi-disciplinary targeted interventions (using a trauma-informed approach) to improve outcomes for young people at risk of becoming involved in the Justice System</p>	<p>Increase by 10% the number of young people who are jointly reported to SCRA and COPFS who are offered robust alternatives to entering the statutory system by 2021.</p>	<p>No. of care experienced children and young people appropriately diverted from the adult Criminal Justice System.</p>

### Why is this important

Where a child is alleged to have committed an offence their age, looked after status and nature of alleged offence will determine the route they take through the justice system. The [Lord Advocates Guidelines](#) on reporting to Procurator Fiscal (COPFS) of offences alleged to have been committed by children and the [Joint Protocol](#) on decision making in cases of children jointly reported to the Procurator Fiscal and Children’s Reporter have the following definition of a child;

*“a “child” is as defined in section 307 of the Criminal Procedure (Scotland) Act 1995 and section 199 of the Children’s Hearings (Scotland) Act 2011, namely:*

- A person under the age of 16 years; or

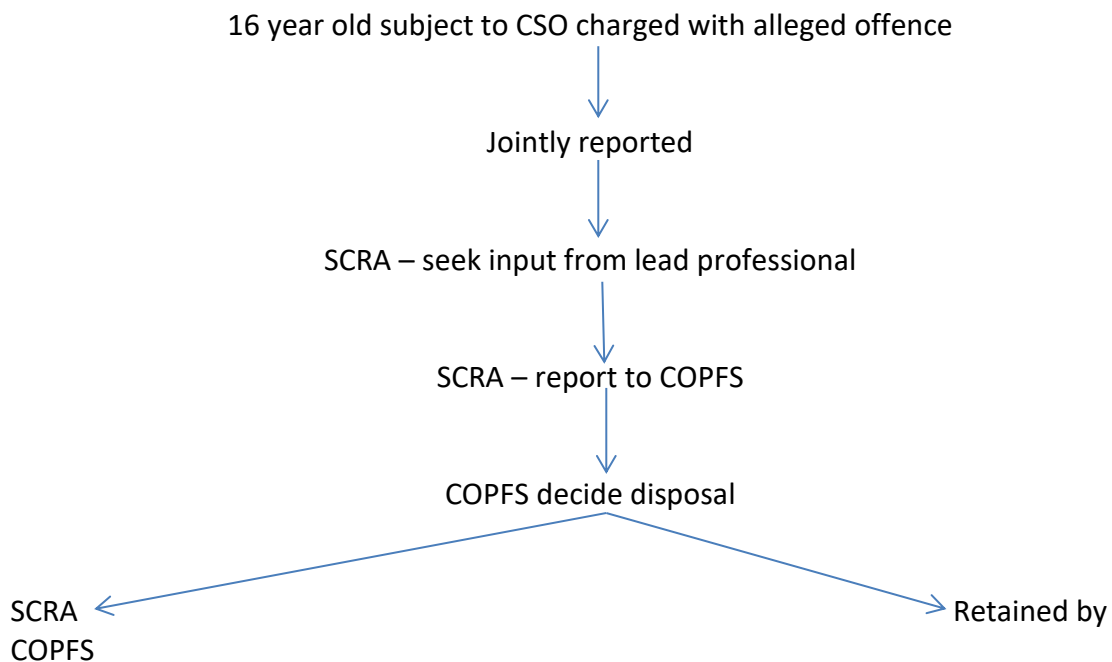
- A person aged 16 and 17 years who is subject to a compulsory supervision order; or
- A person over the age of 16 years whose case has been remitted to the Principal Reporter under section 49(7)(b) of the Criminal Procedure (Scotland) Act 1995 to arrange a Children’s Hearing for the disposal of the case by a Children’s Hearing; or
- A person over the age of 16 years who was referred to the Principal Reporter before they turned 16, but a ‘relevant event’ has not yet occurred. (This includes a situation where the Principal Reporter received the jointly reported case in relation to the child prior to their 16th birthday, but the decision that the Principal Reporter is to deal with the case was not made until after the birthday).

A ‘relevant event’ is defined as being:

- The making of a Compulsory Supervision Order;
- The notification to the person that the question of whether a Compulsory Supervision Order should be made will not be referred to a Children’s Hearing; or
- The discharge of the referral to the Principal Reporter.”

Breakdown of the number of 16/17 year olds who are subject to CSO and those where a “relevant event” jointly reported is not available. However anecdotally we know the majority are subject to CSO’s therefore are care experienced.

Example



When children are jointly reported SCRA will undertake research and make a recommendation to COPFS as to whether the child should be referred to SCRA. COPFS make the final decision on whether they will retain the case or refer it to SCRA.

We know that locally 16/17 year old who are jointly reported are more likely to be retained by COPFS. Local data for the period June 2019 to May 2020 shows that of the 29 16/17 year olds jointly reported 15 were retained by COPFS. In the same period there were 62 8-15 years olds jointly reported only 8 of these were retained by COPFS.

The local picture is reflected nationally. *“The children who were prosecuted in the courts in Scotland in 2017-18 were aged 13-17; there was one 13 year old, one 14 year old, nine 15 year olds, 384 16 year olds and 1,381 17 year olds (Scottish Government data, shared with the author August 2019). There appears to be a particular issue here about ensuring our response to 16 and 17 year olds acknowledges their status as children, questioning compliance with Article 1 of UNCRC44.”* - [CYCJ - Rights Respecting Scotland’s approach to children in conflict with the law](#).

The UNCRC is to be fully incorporated into Scottish law and the United Nations Committee on the Rights of the Child is clear that *“the child justice system should apply to all children above the minimum age of criminal responsibility but below the age of 18’ (United Nations Committee on the Rights of the Child, 2019: para 29).”* - [CYCJ](#). By retaining our 16/17 year olds in an adult justice system we will potentially be in breach of the UNCRC.

There are numerous reasons why children should not be in contact with adult services. Children should be supported in the systems designed for them and understand their needs. Children who are in conflict with the law and are taken into adult systems have poorer outcomes and higher rates of re-offending than those who are supported in children’s systems

It is estimated that between 50-70% of children in contact with the justice system have speech, language and communication needs (SLCN). Where children are unable to understand what is happening how can there be confidence that they have received a fair trial? Children with SLCN are often misinterpreted, lack of eye contact, one word answers and in ability to express self can often be interpreted as guilt.

There is a large amount of evidence that highlights the link between a child’s vulnerability, victimisation and offending. Many children who display offending behaviour have experienced trauma and crime in their own lives. Trauma experienced impacts on brain development and experiences of trauma without care, nurture and protection can result not just in psychological, cognitive and emotional difficulties but affecting one’s physical health too. It is now recognised that the brain is not fully mature until our mid 20’s and brain development can be impacted by a range of factors. To expose children who are developmentally not ready to an adult system, with assessment and interventions that are designed for use with adults is at best ineffective at worst potentially highly damaging to the young person. - *“By understanding how negative and positive experiences affect brain structure and development and that the brain is adaptive to such influences, we can use interventions to create positive experiences to teach children and young people the skills they need to move away from offending behaviour.”*- [CYCJ](#) .

For COPFS to make referral to SCRA they need to have all relevant information about the child to inform their decision. SCRA undertake research and will seek information from social work on the child to inform their recommendation as to whether the child should be referred to SCRA or not.

When SCRA request information from social work on their assessment, care plan and interventions they are/will undertake to address the offence they will approach the child’s lead professional. How long the lead professional has worked with the child, their experience of children who offend and understanding of the system will impact on the

information they share with SCRA. This part of the process could be improved if there was a single point of contact within social work that was aware of all jointly reported young people and therefore able to offer support and guidance to the lead professional and ensure that information is shared in a timely manner. A single point of contact would be able to ensure that information shared is of appropriate detail and quality to inform SCRA's recommendation and therefore COPFS.

Workforce development on the protocol of jointly reported children will be of benefit as will training on sharing assessment, care plan and current and planned interventions. This will ensure that all workers are confident in the process and the information that they share.

There have been attempts to gain representation from COPFS to meetings for the charter however these have been unsuccessful. Historically cases would have been marked by COPFS locally and we would have been able to build a collaborative approach on this issue. However cases are now marked centrally posing a significant barrier to making our aim successful. In national forums we hear language that would suggest COPFS are considerate of young people's needs and vulnerability however we see case examples where this national message appears not to be filtering to the PF's marking the cases. There can be challenges in communicating with COPFS and delays for more serious charges that are marked by the Crown Council. These are challenges that require a national strategy to ensure that all parts of the process understand what our children in conflict with the law require.

#### **Measures:**

##### **Outcome measures -**

- % of young people who are jointly referred and retention rates – baseline and comparative data. Base line data is period June 2019 – May 2020. 29 16/17 year olds were jointly reported in the period, 15 were retained by COPFS.

##### **Process measures**

- Time between SCRA being aware to joint referral and advising single point of contact in social work of this.
- Improved timeous communication between SCRA and COPFS – baseline and comparison of delayed joint referrals
- Time of social work being aware of joint referral and communicating care plan and interventions to address the offence to SCRA
- Number/% of SCRA referrals to COPFS which include all relevant details of care plans and interventions available
- Number attending practice training sessions (SCRA, COPFS, Social Work)
- Outcome of case sampling exercise to ensure compliance with protocol.
- Improved understanding and confidence of workforce (SCRA / COPFS / SW) of the operation of the [Joint Protocol](#) on decision making in the cases of children jointly reported to the Procurator Fiscal and Children's reporter – agreement between COPFS and SCRA.

### **Balancing measures**

- Increase in awareness of reporters of interventions available in general and in particular cases to address offending and improvement in communication by / social work – self assessment / supervision / reduction in delayed joint referrals.

### **Change ideas**

- Improve timeous communication of care plans and planned interventions by social work to SCRA by
  1. Implementing a single point of contact system for SCRA to inform social work of young people who are jointly reported.
  2. Producing an implementing workforce development on communicating care plans and planned interventions with SCRA and need to do timeously
- Improve timeous communication of care plans and planned interventions by SCRA to COPFS by
  1. Ensure that reporters include all relevant details of care plans and interventions available to better inform COPFS consideration of joint referrals.
  2. Exploring whether local links with COPFS can be developed to ensure consistency of approach and awareness of local interventions.
- Improve knowledge and understanding in the workforce (SCRA, COPFS, social work) of the Joint Protocol governing Joint referrals by
  1. Providing a practice Training session / briefing note on Joint Referrals for Reporters.
  2. Providing a Practice Training session / briefing note on Joint Referrals for COPFS.
  3. Providing a training session / briefing note on the operation of the protocol for social work.
  4. Case sampling exercise to ensure compliance with protocol.

### **Potential risks and/or barriers to success & actions to address these**

- Staff/service/organisational capacity.
- SCRA implementation of new digital system will impact on capacity.
- COPFS central approach to marking may be a barrier to developments.
- Challenges were cases are held by the crown council – increases time and level of communication different than those held by COPFS.
- Resources / available interventions to address serious and high risk offending.
- Level of engagement of young person will impact decision-making.
- Very serious and high risk offences are likely to still be retained by COPFS and therefore ability to achieve increase in retention is dependent on nature and number of offences in the period.
- Small numbers of offence referrals overall can skew data particularly when expressed as percentages.
- COVID and impact on workloads

**Project Team (proposed):**

Roma Bruce Davies, SCRA  
 Eilidh Wright, COPFS  
 Andrea McGill, Service Manager, Integrated Children and Family Service  
 Julia Milne WSA Lead for Aberdeen City Council  
 Isla Wilson, Team Manager, Includem  
 Forest Templeton, Aberdeen Young Person's Rights Service  
 Hazel Flett, Criminal Justice Social Work  
 Kayleigh Alexander, Youth Team

**Outline Project Plan**

Action	Timescale
Identify Project Team	Complete
Project Team Initial Meeting	29.10.20
Obtain baseline data (retention rates) for 2019 – 2020	Complete
Obtain baseline data (process measures)	February 2021
Case sampling exercise (compliance)	February 2021
<ul style="list-style-type: none"> <li>• Improve timeous communication of care plans and planned interventions by social work to SCRA               <ol style="list-style-type: none"> <li>1. Implement single point of contact systems for SCRA to inform social work of young people who are jointly reported.</li> <li>2. Workforce development on communicating care plans and planned interventions with SCRA and need to do timeously</li> </ol> </li> </ul>	February 2021
<ul style="list-style-type: none"> <li>• Improve timeous communication of care plans and planned interventions by SCRA to COPFS               <ol style="list-style-type: none"> <li>1. Ensure that Reporters include all relevant details of care plans and interventions available to better inform COPFS consideration of joint referrals.</li> <li>2. Explore whether local links with COPFS can be developed to ensure consistency of approach and awareness of local interventions.</li> </ol> </li> </ul>	February 2021
<ul style="list-style-type: none"> <li>• Improve knowledge and understanding in the workforce (SCRA, COPFS, social work) of the Joint Protocol governing Joint referrals               <ol style="list-style-type: none"> <li>1. Practice Training session / briefing note on Joint Referrals for Reporters.</li> <li>2. Practice Training session / briefing note on Joint Referrals for COPFS.</li> <li>3. Training session / briefing note on the operation of the protocol for social work.</li> <li>4. Case sampling exercise to ensure compliance with protocol.</li> </ol> </li> </ul>	January 2021 – February 2021

<b>Project Stage</b>	<b>Actions</b>	<b>Timescale</b>
<b>Getting Started</b> (Project Score 1-3)	Draft charter developed  Project team identified  Project team meet  Gather and analyse baseline data	Completed  September 2020  October 2020  January 2021
<b>Designing and Testing Changes</b> (Project Score 4-7)	Plan testing of initial change ideas  Review change ideas and confirm with project team  Engage with Young people (service users)	February 2021
<b>Implementing and sustaining changes that demonstrate improvement</b> (Project Score 7-10)	Implement Change Ideas  Deliver Training	February 2021  January 2021
<b>Spreading Changes</b> (Project Score 9-10)	No major actions required to scale up given size of reporter team and volumes of joint referrals.	N/A