

Issue	Draft Bill section	What we have heard	SG response	What SG will do
Preamble	-	There is no preamble in the draft Bill – when this is added in it should make reference to the wider context in particular the intention to legislate in conformity with the UN Convention on the Rights of the Child. Inclusion in the preamble would make the policy intention more visible and increase the profile of the UNCRC in line with Government policy.	<p>We have made clear our commitment to children's rights – our action plan towards better implementation of the UN Convention <i>Do the right thing</i> was launched on 1 September, including the need to raise awareness and understanding of the Convention. It follows that we are committed to putting the rights of children at the heart of the hearings system.</p> <p>The Bill will not have a preamble but a long title which is a non-pejorative statement of what the Bill does. The Policy Memorandum which will accompany the Bill will provide detail on the wider context of the Bill and the policy intentions behind it.</p>	Make explicit reference to the UNCRC and its importance to the children's hearings system in the supporting documents.
Selection of panel members	s2(2)	Concern that the President selecting or choosing panel members will breach his impartiality	<p>The President's role is to support the Panel. This is not a power to interfere in day to day running of Panels. This power will enable the President to set a consistent and strategic framework for Area Support Teams to administer the Panel at local level. We know that organising the panel rota can place a significant burden on volunteer Panel Chairs. We also know that a good knowledge of local panel members is important to this work and will consider what local liaison arrangements might be needed.</p> <p>While the President will have responsibility for appointing members of the children's panel, there will be no direct influence on rota management. That will be performed by the Area Support Teams.</p>	Consider with Partners what the national framework for the exercise of this power should be. We will also consider the clarification of language in the revised Bill.
Panel membership	s2(5)(b)	In some areas it proves very difficult to always have a male panel member for every hearing as fewer men tend to	We recognise that gender balance is important and that achieving it can be a significant issue	Consider whether the legislative requirement for gender balance

		volunteer. The Bill should allow flexibility so that a hearing could still be held if only 3 female panel members can attend.	In some areas. However, it is anticipated that the removal of local authority boundaries for panel membership will help to overcome that difficulty. The point below is relevant to this.	should continue, taking account of the impact this may have on a child.
Panel membership	s2(5)(c)	That requiring a minimum of 1 panel member to be from the local authority where the child lives as proposed in the draft Bill would dilute links between the hearings system and the local community.	It was intended that this would be the default position that could accommodate times of difficulty, e.g. a panel not being able to meet its gender balance, or sickness absence. However, we acknowledge these concerns and are supportive of the principle from Kilbrandon that those making decisions have to be from the same local communities as the children.	Amend the draft Bill so it requires that ideally 3 panel members should come from the local authority in which the child lives, but with flexibility to have a minimum of 2 where circumstances dictate.
Name of the new national body	s3	Concern that the Scottish Children's Hearings Tribunal is a confusing and unhelpful name, for example the body itself will not be the tribunal, (that is what the hearing is) but will support the tribunal instead.	We recognise this concern and are minded to change the name of the new body to address it.	Consider further what will be an appropriate name for the new body.
Functions and powers of the new body	s4-5	Concern that the Bill allows the new body to use hearing centres outside the local authority in which a child lives. This appears to be aimed at making things easier for those providing the service rather than those using it. The proposal will make it harder for children, families, panel members and professionals to attend hearings which could be detrimental to outcomes for the child and fair process. It is argued that this could have implications for panel member recruitment and retention. How far does the power go that permits the new body to acquire and dispose of land?	We are committed to keeping the child at the centre of the hearings system – a focus on providers would run counter to Kilbrandon principles. The presumption is that panels will be held locally except in exceptional circumstances - this provision is simply designed to allow the necessary flexibility if and when required. Recognise that there are concerns about the prospect of hearings being held outside a local authority, but also understand there are occasions where this may be necessary to improve accessibility for a child and relevant person.	Keep this issue under review. We will also clarify the intention of this power in the Explanatory Notes to the Bill. Will consider re-wording to provide assurance that the expectation would be to hold hearings in local authority areas as the norm.
Directions to the Tribunal	s7	Concern that the Tribunal will be directed by 2 parties – Ministers and the President. How can the Tribunal be independent of Government given Ministers' power of direction?	This is a power to set strategic objectives – a common provision for Ministers in relation to NDPBs. There is no intention that they will interfere in the day-to-day running of the new body, that will be for the President.	Nothing further at this stage but the Explanatory Notes will provide further detail.

			However, as a public body, there is a need to set in place expectations that should be met, and that the body should report to the Scottish Parliament on how these expectations are being met.	
Grants to SCRA and the new body	s8 s22	Concern that the Bill should require both bodies to demonstrate Best Value in their use of public funds.	All accountable officers of public bodies are under a specific duty to ensure that arrangements are in place to secure best Value. SG does not therefore consider it necessary to apply an express statutory duty to public bodies in respect of Best Value.	We will clarify the Best Value responsibilities of public bodies in the supporting documents to the Bill.
President and Principal Reporter as CEO	s12(1) s26(3)	Concern that it is very difficult for the same person to carry out both roles effectively.	We recognise this concern. Schedule 3 para 6 (in respect of the President) and Schedule 5 para 6 (in respect of the Principal Reporter) already provides the power for them to delegate functions and this could include to a CEO if wanted.	Be clear in the supporting documents about the powers of delegation that the President and Principal Reporter will have.
Functions of the President and Area Support Teams	s13 s32	<p>While there has generally been support for the national framework and consistency in recruitment and training of panel members that a new national body will bring, there is concern that having it and Area Support Teams (ASTs) will result in a centralisation of the system. It is argued that it will break the link between local authorities and their local panel and remove local authority involvement and influence in the hearings system. Consistency will not necessarily be created as different areas will need different things. It is argued that groups of local authorities could work together to provide the role envisaged for ASTs without the need for new bodies, reducing duplication etc. Local authority control/administration of ASTs has also been suggested.</p> <p>There is also concern about the lack of detail in the Bill about the role of the President, what powers the office will have and what functions will be delegated to ASTs and how the new arrangements will work in practice. For example, there is no mention of the President delegating the task of support to panel members.</p>	<p>We remain firmly of the view that there needs to be a national body and a national panel to help bring through improvements to the system. We are however happy to continue discussions about the role and remit of that new body and how it will work and link with local partners in particular local authorities.</p> <p>Ministers are committed to ensuring that panel members continue to be recruited, selected and trained on a local basis, and that local community members are best placed to make decisions for the local people in their community.</p> <p>The Bill provides detail on the key functions and responsibilities of the President and how these might be delegated to e.g. volunteers. While the President will have responsibility for providing advice to the panel, this is not a</p>	Continue discussions with partners on how the proposed new body will work at local level and how it will link in with local partners. We know there is evidence of good practice in many areas and in developing the new arrangements, we are keen to learn from and build on this.

		<p>The Bill provides for there to be 3 different categories of officials supporting the President and it is not clear what is the purpose or rationale for this. The Bill could be amended to provide that ASTs deal with recruitment, training and monitoring of panel members and advising local authorities and employees of the President deal with the administrative side of hearings and act as hearings advisers.</p> <p>How will panel members be supported? There is no mention of Hearings Advisers in the draft Bill. More detail about this should be set out in the primary legislation. More detail is also required on how the new body/ASTs will monitor individual panel members, deal with complaints etc.</p>	<p>function that will be delegated to the Area Support Teams.</p> <p>The draft Bill outlines the key functions of both the President and the Principal Reporter who have ultimate responsibility to ensure these responsibilities are carried out. These functions can be delegated as each of these see fit. It is not necessary to make provision for Hearings Advisers in the Bill in the same way that we have not made provision for Reporters.</p>	
Panel member re-appointments	s13	That s13 does not list the re-appointment of Panel Members as a function of the President, nor is included as a delegated function in 32(2), but it is included in Schedule 1.	S13 sets out the top-line functions of the President and Schedule 1 sets things out in more detail. The power to re-appoint panel members only needs to be in once and the provision in Schedule 1 achieves that.	Nothing further at this stage.
Copying of advice	s13(3)	Concern that giving advice to parties after a hearing will mean that they will not be in a position to know or comment upon that advice until it is too late. It is suggested that this element of the section is deleted.	We would expect the child and/or the relevant person to attend a hearing in most circumstances. When that is the case they will be given this advice at the hearing. This power simply allows the provision of advice to those who do not attend.	Nothing further at this stage.
Changes to functions of President	s14	Concern that this power will allow the Government to confer additional functions on the President without the need for primary legislation.	That is not the intention of this power. The body is new and its functions and responsibilities may need amending in the light of practice. It is designed to help the new body to fulfil its functions more effectively, for example by clarifying or adding to statutory functions or rationalising governance arrangements without the need for primary legislation. Any changes will require the approval of Parliament via the affirmative procedure.	Keep this under review.
Directions by	s21	s the ability for Ministers to give directions to SCRA in	The same principles apply to SCRA as does	No further action at this stage.

Scottish Ministers		conflict with being independent from Government?	the new national body. See comments on s7 above.	
Functions of Principal Reporter	s27	That the Bill should reinstate and confirm the Reporter's duties before and during a hearing.	This would best be dealt with through secondary legislation. The Children's Hearings (Scotland) rules 1996 will be amended as part of the reform programme.	No further action at this point. Will be taken up as secondary legislation is being developed.
Area Support teams	s32	Concern that this will remove the principle of children's panels being based on local authority areas and the important link between panel members and local children's services. Concern that the number of ASTs and their location will not reduce costs as this work is currently done by volunteers. What will be the break down between paid and volunteer posts within ASTs? What local knowledge, links and understanding will they have?	It is the intention of the reforms to transfer local children's panels to one national panel. There is however a strong commitment to maintaining links between panel members and the local community, local services and providers etc. We expect that panels will continue to be recruited, trained and operate locally.	Work with partners to help ensure that ASTs maintain and strengthen local connections.
Monitoring role of Area Support Teams	s32(2)(b)	The Bill should be amended to ensure that the "monitoring" function should not be delegated to anyone acting as a hearings adviser. It would also be helpful to have a regulation making power in relation to monitoring.	We agree that it should not be the hearings adviser who has a monitoring function in relation to Panel Members. As outlined earlier, the key functions of the President are those that need to be outlined in primary legislation and the power to delegate these. Monitoring is currently a function that can be delegated to Area Support Teams. This is a very different role from that of provision of legal advice to a hearing, which the President may delegate to professionals, in the same way as the Principal Reporter currently delegates functions to the Reporter. Further detail, if required, can be provided in secondary legislation.	No further action at this stage.
Appointment of safeguarder:	s33 s36	Concern that the appointment of a safeguarder is for a hearing only rather than covering the whole hearings proceedings and any subsequent appeal. This could lead to safeguarders being "unappointed" which could work against	We recognise this concern.	Amend the Bill to permit a safeguarder to be appointed for the duration of hearings proceedings and give further thought to their

		<p>the welfare of the child.</p> <p>Concern that s33(2) only requires a hearing to state a reason for appointing a safeguarder. Should return to current position that a hearing is required to state reasons as to why it did or did not appoint a safeguarder to ensure consideration is given and evidenced in every case.</p>	We recognise this concern.	<p>role in appeals.</p> <p>We are reviewing this section in consultation with the Scottish Safeguarders Association.</p>
Role of safeguarders	s33-37	<p>It would help understanding and implementation of the safeguarder role if elements presently scattered through other regulations and rules were highlighted here. This would be helped by making the representation of children's views and interests the focus of a specific section in the Bill including, for example, provisions about representation by a person chosen by the child (Rule 11 of the Children's Hearings (Scotland) Rules 1996).</p> <p>Concern that Reporters should have the power to appoint a safeguarder prior to a hearing where appropriate to avoid unnecessary delays and have an independent report for the hearing.</p> <p>Safeguarder reports for court hearings should be available to subsequent children's hearings – this doesn't happen at present and hearings have to appoint their own safeguarder to get the same information.</p>	<p>We recognise that under current legislation there is a lack of understanding and awareness around the role of Safeguarders and that is why the draft Bill sets out the functions of safeguarders in more detail than in the Children (Scotland) Act 1995. Provision outlined in the Rules will be covered in secondary legislation.</p> <p>These points have been raised very recently.</p>	<p>In the development of the Bill and the supporting legislation and documentation we will consider how best to reflect the role of Safeguarders.</p> <p>We will investigate further.</p>
Curators ad litem	s34(3)	<p>Concern that the draft Bill removes the power for the Sheriff to appoint a curator ad litem. Separately, there is concern that if curators are not to be appointed, safeguarders need to be properly funded.</p>	<p>We acknowledge that there are occasions at present where sheriffs take the view that the interests of children can be best represented by curators ad litem. Other sheriffs tend to appoint safeguarders. Where a safeguarder is appointed and believes the child would also benefit from legal representation, they may instruct a solicitor on the child's behalf.</p>	<p>Look again at this provision.</p>
Function of safeguarders	s35(1)	<p>Concern that panels can only appoint safeguarders for hearings, allowing panels to appoint a safeguarder at a grounds hearing would mean they would be ready and prepared if the grounds are referred to sheriff.</p>	<p>This may be clarified when the section on business meetings is reviewed (see below).</p>	<p>Bear this in mind in developing our proposals.</p>

Attendance of safeguarder at hearings	s35(2)(a) s171	Concern that safeguarders cannot always attend hearings so the Bill should not compel them to attend. At the same time, safeguarders should be named on the face of the Bill (s171) as persons with the right to attend a hearing.	We recognise that safeguarders should have the right to attend hearings and acknowledge the commitment of safeguarders to attend whenever possible and that this will not be in all cases.	Amend the Bill to give safeguarders a right but not a requirement to attend hearings.
Safeguarder reports	s35(2)(b) s35(2)(c) s35(3)	Concern about the number of reports that safeguarders could be asked to produce. They only produce safeguarder reports and it is not clear what "any" reports mentioned in 35(2)(c) is expected to include or why no other potential reports (eg psychological reports) are mentioned here. There are also concerns that the draft Bill will permit the sending of reports to the hearing or sheriff prior to evidence being heard.	We recognise the concerns raised. This provision is not intended to increase the burden on or alter the status of safeguarders. S35(2)(c) is to allow a further report to be commissioned when additional facts or information come to light at a hearing. S35(3) supports the independence of safeguarders by allowing them to provide additional information to hearings if and when appropriate.	As above, we are reviewing the section on Safeguarders with the Scottish Safeguarders Association.
Safeguarders	s37	Further regulation is needed here on the qualifications and training that should be required of safeguarders	Safeguarders play a key role in promoting the best interests of children – the qualifications and training of safeguarders is therefore a key issue. The regulation making power in s37 allows Ministers to set the framework for this which will be outlined in secondary legislation.	Nothing further at this stage.
Responsibility for Safeguarders	s37	Concern has been expressed about the proposal to leave responsibility for the management of Safeguarders, for their training and payment of expenses with local authorities. It goes against the streamlining that the reforms are designed to introduce and does nothing to address the current concerns about standard setting, quality assurance, discipline etc. Currently CPAC clerks manage the safeguarder function funded by local authorities. If the CPAC function is to be taken over by the new body/ASTs local authorities would still have to find the capacity and funding to administer the safeguarder function.	As safeguarders are appointed to protect the interests of the child they must be independent of both SCRA and the new national body. It would be simple and straightforward to leave things with local authorities, but we recognise that some partners have concerns about this.	Continuing to explore options for where responsibilities for safeguarders might sit. We are willing to take any views on this issue.
Mutual assistance obligations	s38	There is no need for this duty, other than to resolve the complications introduced by the new body. The bodies involved already work together. There is also nervousness as to whether a claim for assistance would imply a transfer of resources. How will compliance with this duty be monitored or policed? Is this provision ECHR compliant?	We acknowledge that cooperative working already happens. The provision has been included in the Bill to ensure that this continues by giving it statutory force. This is a well-precedented duty in legislation dealing with different bodies which work together (Eg the	We will explain the intention of this power in the supporting documents that will accompany the Bill.

			Additional Support for Learning Act 2004). These are professional organisations and the duty itself should be enough to ensure cooperation. And since they are public bodies, the normal rules and remedies of administrative law will apply.	
Welfare of the child and other general considerations	s39	<p>The title of Part 2 should make explicit reference to the child's views. To help put the rights of child at the centre, the draft Bill should set out the principle that children should be given an opportunity to express their views (with authorised exceptions) rather than set out a list of circumstances when they should be setting out the principle and authorising exceptions. It should set out how they can be heard in the process and how and when they can access an independent advocate and how that differs from the role of a safeguarder and legal representative. The Bill also needs to make clear that a presumption in favour of those aged 12 and over and is not meant to undermine the rights of those under 12, there is case law which demonstrates that the views of under-12s are important.</p> <p>There is also concern that the language has changed from that used in the Children (Scotland) Act 1995 ("the 1995 Act"). Why does the Bill say "have regard" to the need to safeguard and promote the welfare of the child as the paramount consideration. Could 1995 Act wording not be used.</p>	<p>Section 39 is based on s16 of the 1995 Act.</p> <p>We are committed to putting the rights of children at the heart of the hearings system and to ensure that the voice and views of all children are heard.</p>	Look carefully at the comments received on these sections and consider whether/what amendments could be made.
No order principle	s39(8)	Should this not read "continue" rather than "terminate"?	We acknowledge this point	Review the wording.
Exceptional cases	s40	<p>Concern that this places too much emphasis on protecting the public – should include protecting the child from serious harm or be deleted.</p> <p>Similarly, there is concern that s40 should reflect that the UNCRC requires the best interests of children to always be a 'primary' consideration even when wider issues are of concern. This reflects section 16(5) of the 1995 Act. It is also</p>	<p>Section 40 is based on s(16)(5) of the 1995 Act.</p> <p>As above, we are committed to putting the rights of the child at the heart of the children's hearings system.</p>	Look carefully at the wording in this section and review the policy intention behind it.

		suggested that where a children's hearing uses this provision the child be entitled to legal representation and the matter be automatically reviewed by a court.		
Emergency Protection Orders	s41	Concern that changing the name from Child Protection Orders as was the case previously makes these orders less child centred.	We recognise this concern and are minded to revert to the original wording of Child Protection Order.	Amend the draft Bill to that effect.
Emergency Protection Orders	s41-57	A number of detailed comments about these Orders in the draft Bill around, for example: there is no provision to review an EPO; "any person" as the applicant for the order (s42); promoting better understanding by practitioners; taking refuge in a place of safety (s41(1)(c)); qualifying the duty to implement the order (s58); parental responsibility (s44-45); review or termination of an order (s48-50); and alternative procedures (s55-56). It is also pointed out that there is no provision for referral to the Reporter to consider grounds for referral and need for a hearing on the 8 th working day following an EPO.	These sections are based on sections 57 to 61 of the 1995 Act. We are extremely grateful for the time and effort that partners have put into considering these sections and in offering such detailed and helpful comments.	Take time to consider the detailed comments received and whether/what amendments should be made to the draft Bill.
Termination of EPO by Principal Reporter	s50(2)(a)	Concern that this section should include a hearing arranged under s48 and s49 – the draft Bill only includes s49.	We accept this is an omission	The Bill will be amended accordingly.
Application to sheriff to vary or terminate EPO	s51(2)(b)	As above, concern that this section should include a hearing arranged under both s48 and s49.	As above	As above.
Emergency Assessment Orders	s58	It is not clear what the timescales will be. Will the child and parents have to be given notice of the application and have the right to be heard before an application is granted? If not, the period of 7 days would allow a child to be detained without review longer than under an Emergency Protection Order. Removing "child" from the title makes these Orders less child-centred. There is also a concern as to why an EAO is required when EPOs exist – EPOs are more useful, an assessment is unlikely to ensure parental or other cooperation.	This section is based on s55 of the 1995 Act. There is no change of policy or policy intent. The child or parents will not be given notice of an order but they will be aware that the local authority wishes to assess the child. In carrying out the order the local authority will be operating under its general duty to safeguard and promote the welfare of children in need. We accept the comment about removing "child" from the title of the Orders. We acknowledge the perception of a potential overlap between these orders and EPOs but do not believe that is the case. EPOs are subject	Consider with partners, and in the light of further representations, whether this Order should be retained in addition to Child/Emergency Protection Orders.

			to a different and higher test than these orders. We would welcome further comment on whether/how Child Assessment Orders are used in practice.	
Grounds for referral	s59	<p>Support for the Government's intention to revise and modernise the grounds for referral. There is however concern that listing the offence based grounds for referral first in the draft Bill suggests that the Government is more concerned with offending behaviour rather than child protection and that this goes against the ethos of the system. There are some important omissions, for example there is no ground that explicitly addresses the child who has been the victim of an offence.</p> <p>Some of the new grounds are poorly worded and could lead to reduced protection for vulnerable children e.g. victims of schedule 1 offences, protection of new-borns using 'lack of parental care' grounds. Concerns about a possible increase in inappropriate referrals e.g. domestic abuse grounds.</p> <p>The inclusion of the new domestic abuse ground has been welcomed but there is concern that there is a lack of effective disposals or support options for these children. There is also a need for specialist domestic abuse awareness training for panel members.</p>	<p>This section is based on s52 of the 1995 Act.</p> <p>We know that most hearings are on care and protection grounds and recognise the perception that the ordering of the grounds for referral suggests a greater emphasis on offending. There is absolutely not a greater emphasis on offending – the GIRFEC approach is key; the best interests of children is the Government's primary concern.</p> <p>Our intention is to modernise the grounds for referral, to simplify the language and ensure they provide for the vulnerable children and young people who can benefit from referral to a Children's Hearing. We are determined that the grounds will help maintain and strengthen the welfare-based nature of the hearings system. We wish to ensure that referrals are appropriate i.e. that grounds are twinned with a need for compulsory supervision, so that children only appear before a hearing where compulsory measures may be necessary</p>	<p>Amend the draft Bill to place the care and protection grounds for referral first.</p> <p>We will revisit wording of the draft grounds, and we will make any necessary changes to enable referral of any children and young person who needs compulsory measures of supervision.</p> <p>We will continue to take views on this very important section as it develops.</p>
Duty to provide information to Principal Reporter	s60	<p>Concern that health service should have a similar duty to provide all relevant information discovered to Principal Reporter.</p> <p>The information provided should include information about adults where relevant to the safety and welfare of a child.</p>	<p>This section is based on section 53(1) of the 1995 Act.</p> <p>We acknowledge this concern. Our understanding is that it is normal practice for a health professional who has concerns about a child to alert the relevant social work department who will refer the case to the Reporter if appropriate. Health professionals also have the power to refer a child to the</p>	<p>Reconsider in light of comments received.</p>

			<p>Reporter under the general power at s65 of the draft Bill. It is also important not to cut across the well-established rules of medical confidentiality.</p> <p>We consider that relevant information on the child would include information on the adults in their life.</p>	
Duty on constables	s61	Concern that while this power is needed there should be some reference here to the GIRFEC principles of early, multi-agency intervention when required.	<p>This section is based on s53(2)(a) of the 1995 Act</p> <p>We are fully committed to GIRFEC and the principle that the police should only refer children to the Reporter when that is appropriate. We will continue to make this clear in SG guidance and publications. We do not consider it something that needs to be put in primary legislation.</p>	Nothing further at this stage.
Referral by the Court to the Principal Reporter	s63	Concern that unlike the equivalent provision in the 1995 Act (s54) this does not exclude the ground that the child has committed an offence. Further, s80 of the Draft Bill repeats s54(3) of the 1995 Act whereby the reference from the court is to be accepted as if the grounds were already established. Concern that this is not fair and just.	<p>This section is based on (part) of s54 of the 1995 Act</p> <p>It is not our intention that a referral by the Court on offence grounds should be possible under s63.</p>	Look again at this section to ensure that the policy intention is achieved.
Duty to assess case	s66(2)(b) s69	Concern about change in terminology from "compulsory measures of supervision may be necessary" to "a compulsory supervision order is necessary for the protection, guidance, treatment or control of the child". These terms are old-fashioned, and patronising towards children and over-emphasise the behaviour of children.	<p>Section 66 is based on s56(1) of the 1995 Act</p> <p>The additional wording was intended to add clarity to the term "compulsory measures". We would welcome further views on this point. The wording reflects the well-established language of sections 1 and 2 of the 1995 Act re parental responsibilities and parental rights.</p>	Re-consider with partners the wording of this section.
Local authority reports	s67(3) s67(4)	It is not clear whether local authorities will have the power to demand information from a particular person or source. An alternative would be to give the Principal Reporter a statutory power to demand reports from other agencies, over and above the report from the local authority.	<p>This is based on s56(2) and (3) of the 1995 Act</p> <p>We considered whether local authorities would need additional powers as suggested by the comments received but concluded that they will</p>	Nothing further at this stage.

			be able to rely on their ordinary powers of investigation	
Voluntary measures	s68	<p>Concern that there is no explicit provision in the draft Bill to allow Reporters to refer children for voluntary measures (such as restorative justice) rather than to a children's hearing. Statutory basis will also help secure consistent Reporter practice when making voluntary referrals. Concern also that if a child is referred for voluntary measures there is no means of monitoring whether they engage or any means of seeking compulsory measures for them unless there are new grounds for referral.</p> <p>The Bill should also include an obligation on local authorities and health boards to provide a service to a child or family on the basis of voluntary cooperation with an agreed "child's plan". And include a power for the Reporter to obtain information from a lead professional/agency on progress of the voluntary plan.</p>	<p>This section is based on s56(4) and (5) of the 1995 Act.</p> <p>We do not believe that an explicit reference in primary legislation is required to allow a Reporter to refer for voluntary measures. We recognise however that such a reference would be helpful in making clear that the Getting it right approach and the "no order" principle remain central to the hearings system.</p> <p>The final point has been raised very recently.</p>	<p>Consider amending the draft Bill to make explicit reference to the Reporter's power to refer children and young people for voluntary measures.</p> <p>We need to take further views on this point.</p>
President to arrange hearing: antisocial behaviour	s70	<p>Concern that Reporter has to accept the sheriff's view that compulsory measures are required which undermines the discretion of the Reporter. It is also argued that the added bureaucracy brought about by the Bill is exemplified by this section: previously a sheriff could require the Reporter to arrange a hearing, now the Reporter will have to require the President to arrange a hearing.</p>	<p>This is simply a restatement of s65(1A) and s52(2A) of the 1995 Act which were introduced by the Antisocial Behaviour etc (Scotland) Act 2004. There is no intention to change the current law.</p>	<p>Nothing further at this stage.</p>
Arranging children's hearing	a s72(2)	<p>Concern that there are no timescales set out here within which a hearing must be held; merely that this must be "as soon as reasonably practicable."</p>	<p>There is not currently a statutory time limit on Reporters to arrange hearings. The draft Bill reflects that position but in addition provides that the President must arrange a hearing as soon as is practicable. In practice, some hearings need to take place more quickly than others, not specifying a timescale allows Reporters to prioritise cases as appropriate and we would expect this practice to continue under the new arrangements. Specifying a statutory time period would reduce the discretion and flexibility of professionals in the system.</p>	<p>Not make any changes to the Bill at this stage. We will continue to work with SCRA to ensure the gap between Reporter decision and hearing is as short as possible.</p>

Arranging children's hearing – child protection order	S72(2)	Why has it been decided to dispense with the 8th working day hearing following a child protection order that was prescribed by s65(2) of the 1995 Act?	We accept this concern. It is not the intention to change the current position.	Amend the draft Bill to continue the current situation.
Initial children's hearings	s73-75	The planned Guernsey model would reduce the number of hearings and simplify procedure for the child and family, ie grounds could be dealt with at a meeting with the Reporter. If grounds are agreed the case could proceed straight to an initial hearing; if not an immediate referral to the sheriff could take place. Only where emergency measures are required would a hearing be needed in the interim. Where grounds are referred to a sheriff there should be a maximum time stated within which the case must be heard.	There was discussion about this issue during consideration of the Children's Services Bill a few years ago. Such a change would however represent a significant change from current practice and would require extensive consultation.	Consider further with stakeholders.
Initial children's hearings	s73-80	It is confusing to have these provisions here when those relating to Interim Supervision Orders are in s144-145.	We acknowledge this concern.	Consider in revising the Bill the best order for the various provisions.
Deferral of decision	s74(4) s106(4) s113	<p>Concern that by making the deferral of the decision mandatory, there will be an added formality and inflexibility to children's hearings which goes against the original principles of hearings. Children and families are often happy to proceed with hearings, where some reports (e.g. a school report which can be easily digested) are received late and panel members use their discretion as to whether to proceed.</p> <p>Concern also that this is different from current practice where the decision to continue is discretionary and that it could lead to more continued hearings. It is also argued that as s74(4) uses "must" it contradicts s76(3) which uses "may" and where the hearing can proceed on partially accepted grounds - it is not clear why one should be mandatory and the other discretionary.</p> <p>There is also concern that by allowing a hearing to defer a decision when reports are late may mean a child's best interests being overlooked - the test to defer a decision must include the test of the welfare of the child in s39. It is not clear that continuing hearings to a later date in this way will</p>	<p>Section 74(4) is based on s65(5) of the 1995 Act (which links to s69 of the Act).</p> <p>Section 106 is based on s69(2) of the 1995 Act.</p> <p>Section 113 is a new provision to make clear that a hearing can delay making a decision on whether to impose compulsory supervision requirements or to discharge the hearing.</p> <p>There is no intention to change the law on this point or to interfere with Panel's ability to make a judgement based on individual circumstances. Rather these sections seek to provide further clarity on the issues Panels will wish to take into account and also to provide Panels with some discretion. As with all decisions that a hearing takes in relation to a child, it must do so in keeping with the welfare test set out in s39.</p>	Amend the wording of s74(4) to provide that the panel "may" defer rather than "must".

		improve the existing process.		
Role of Reporter at grounds hearing	s77(1)	If it continues to be the intention that Reporters do not attend hearings, the right of the Reporter to attend grounds hearings (in order to then make an application to the sheriff) should be made explicit in the Bill.	We recognise the concerns about the proposed role of the Reporter and will look at detailed comments like this as part of our wider consideration of the issue.	Work with key partners, in particular SCRA, in considering options for the role of the Reporter in future and produce a revised set of proposals in the autumn.
Warrant to secure child's attendance at court	s77(3)(b)	Concern that if a hearing exercises this new power, what takes precedence if the sheriff decides to excuse a child from attending?	This section sets out the panel's responsibility to inform the child of his or her obligation to attend, unless excused by the sheriff.	No further action at this stage.
Sharing of evidence from Procurator Fiscal	s81	This section could have gone further and stated a pre-eminence of the welfare of children and the need to consider Article 3 of UNCRC (best interests) in sharing of evidence between the Procurator Fiscal and Reporter. The draft Bill gives too much discretion to the prosecutor who has no need to factor the best interests of the child into his decision.	This section is based on s53(4)(a), (5) and (7) of the 1995 Act. We are keen to explore ways in which the Bill and wider reforms can strengthen regard for the best interests of the child in the hearings system.	Work with the Crown Office and Procurator Fiscal Service (COPFS) and SCRA to review this section in the light of comments received.
Evidence held in connection with crime:	s81 s99	Concern that unlike in s53(4) of the 1995 Act there is no duty on a prosecutor to comply with a request for evidence from the Principal Reporter, it just sets out some grounds on which the prosecutor might refuse. What about redress for a reporter aggrieved by a refusal?	Section 99 is based on s53(4)(b), (5) and (7) of the 1995 Act. We acknowledge this concern and would welcome further views on these sections.	Work with COPFS and SCRA to review these sections in the light of comments received.
Attendance by child at grounds hearing	s83(2)(c)	Concern that this provides a new power for hearings to exclude the child from a proof hearing – should this not be for the sheriff?	Acknowledge this point.	Draft will be amended accordingly.
Child's right to attend a hearing	s84	This provides that a child "may" attend the hearing even if they need not do so. It would be better if the section said the child "had a right to attend", which is the wording used in section 159(1)(a)(iii).	This section is based on s68(4)(a) of the 1995 Act. The wording in the Bill reflects modern drafting practice, however, we acknowledge that some have concerns that different wording has been used to describe the child's ability to attend a hearing.	Revisit the wording on this point to ensure consistency.
Representation at a hearing	s85	Concern that provision on representation has changed from the 1995 Act. S85 entitles the child and recognised carer to be represented by "another person, whether legally qualified or not." At present, section 68(4) of the 1995 Act allows them	This section is based on s68(4) of the 1995 Act. We recognise this concern. It is not our	Reconsider the wording of this section.

		to have non-legal representation "without prejudice" to the right to have a legal representative.	intention to change the current position in relation to representation.	
Termination of compulsory supervision order	s101	Concern that while this allows the sheriff to refer for supervision or guidance by the local authority, there is no equivalent to the transitional provision contained in s85(7) and (8) of the 1995 Act. It is important for children that provisional arrangements be allowed so that no abrupt change in living conditions is effected by the court's decision.	This section is based on s85(9) and (10) of the 1995 Act. We do not intend to replicate the provisions of s85(7) and (8) in the Bill.	Nothing further at this stage.
No order principle	s106	Concern that there is no reference here to the no order principle which all panels should consider. This could be damaging to children. Also concern that use of interim supervision orders could conflict with the no order principle.	This section is based on s69(1) and (2) of the 1995 Act. The Government supports the no order principle and it is contained in s39(8) of the draft Bill and applies wherever a compulsory supervision order is being considered. It is therefore not necessary to mention it elsewhere in the Bill.	Consider further in the light of comments.
Compulsory supervision orders	s114	Concern that changing the term from "supervision requirement" to "supervision order" sets the tone of an underlying focus on offending rather than welfare.	This section is based on s70(1), (2), (3), (3A) and (8) and 52(3) of the 1995 Act. We have sought to make this more user friendly by using the term "order", which is often used by many at the moment. Compulsory supervision order is also a more accurate description of what actually happens and it links into the test of compulsory measures being necessary re the child. We are happy to take further comments on what term is most appropriate.	Review this section in the light of further comments received.
Compulsory supervision orders	s114-142	A number of detailed comments about these Orders in the draft Bill around, for example: the opportunity to specify the need to follow GIRFEC approach in responding to supervision orders; the power to impose duties on specific parts of councils and other agencies, not just "local authorities (s114(1)(c)); the need to consider contact even when a child will be living at home (s114(3)); restrictions on a child's liberty (s115(2)); information sharing in relation to	We are extremely grateful for the time and effort that partners have put into considering these sections and in offering such detailed and helpful comments.	Take time to consider the detailed comments received and whether/what amendments should be made to the draft Bill.

		movement restriction conditions (s118); the review of compulsory supervision orders (s123-130); and initial hearings when a child has been arrested (s141).		
Residence	s115	Concern that there is no provision here as to how the suitability of a residential placement will be checked.	This point has been raised very recently.	We will consider further.
Movement restriction conditions	s118(5)	Concern that this section allows for different movement restriction services in different areas – this seems to conflict with the aim of more uniform/consistent services.	This point has been raised very recently.	We will consider further.
Duties on local authorities	s120-121	Hearings should be given the power to impose duties on specific local authority departments and other agencies, not just “local authorities”.	This point has been raised very recently.	We will consider further.
Duty to secure or facilitate services from elsewhere	s121	It is not clear how local authorities will secure services from other local authorities or how any disputes will be resolved.	There is no intention to change current practice or increase the burden on local authorities here.	Nothing further at this stage.
Duty to reside in certain places	s122	Concern that “from time to time” is too vague an expression.	This language reflects the wording currently used in s71(2) of the 1995 Act. Local authorities are public bodies and can be trusted to act appropriately. Circumstances will vary and it is overly prescriptive to specify in primary legislation when an authority must review a child's accommodation.	Nothing further at this stage.
Breach of duties by local authorities	s134	A range of views on this. There is concern that restating this power (it is taken from the Antisocial Behaviour (Scotland) Act 2004) risks creating an authoritarian relationship between the President and local authorities and that it is not the best way to resolve issues between authorities and panels. Conversely, others have expressed disappointment that the draft Bill does not propose a strengthening of the power to hold local authorities to account. There has also been concern about transferring the role of applicant from the Principal Reporter to the President and that giving the power to the President could make the use of this power vulnerable to ECHR challenge. Separately it is argued that at 134(3)(c) the draft Bill should	This section is based partly on s70(7A), (7B), (7C), (7D) and (7E) of the 1995 Act as inserted by the Antisocial Behaviour Act 2004. These are very useful provisions which strengthen local authorities' duties to implement compulsory supervision orders and provide mechanisms to enforce these duties. We are clear that this measure is required to help ensure that children receive the help and support they need.	Consider suggestions from partners on the form of words to be used here while keeping the policy intent.

		make clear that the President "must" rather than "may" make an application to the sheriff – the final decision should be with the panel not the President.		
Referral of a child who is already under supervision	s137	It is not clear why a Reporter would request an initial hearing for a child who is already under supervision.	If there are new grounds for referral then the matter would go to an initial children's hearing in the normal way because the new grounds are distinct from the existing compulsory supervision order.	Nothing further at this stage.
Warrants to secure attendance	s143	Concern that s143(1)(d) (and s144(6)(c) and s146(5)(c)) allow for children to be detained in a "police station, police cell or other convenient place". The reference to "convenience" rather than suitability is considered disturbing as it seems to place little emphasis on the welfare of the child. Place of safety is already defined in s207 as including a police station so could this section just refer to place of safety? Could reference also be added here (as in regulation 15 of the Emergency Child Protection Measures (Scotland) Regulations 1996) to moving children taken to a police station as a place of safety to a more suitable location as soon as reasonably practicable.	This reflects the 1995 Act but we acknowledge this point.	We will consider changing the wording accordingly.
Workload of sheriff	s143	Concern that draft Bill will mean an increased workload for sheriffs as well as increased costs.	We do not expect that the new provisions in relation to warrants will result in an increased workload for sheriffs. It is expected that the workload of sheriffs will be reduced as a result of the move to an expedited process for establishing grounds through a paper-based process as set out in s79 of the draft Bill.	Nothing further at this stage.
Interim Compulsory Supervision Orders	s144-145	Concern that a hearing's current ability to extend a place of safety warrant for 66 days will be diluted under the draft Bill by the need to apply to the sheriff after 22 days. Another example of power being transferred from hearings to sheriffs. More clarity is also needed on what happens when a sheriff has issued ISOs for 66 days or more, the case goes back to a hearing, but the hearing is unable to reach a decision, in which case the hearing is unable to issue an ISO even if the child would be in danger. This is gravely concerning as it would put a child at risk.	We accept these concerns. These are complex matters but we are sympathetic to the suggestion that this power should remain with hearings.	We will consider amending the Bill in order to retain the current legislative position.

Medical examination orders	s146(5)(c)	Concern that a medical examination could be conducted in a police cell.	This is based on s66(2)(a)(ii) of the Act. The draft Bill suggests that the child might be detained in a police cell "in the meantime" to enable a medical examination order to be satisfied. There is no intention to have medical examinations carried out in a police cell. Section 146 (1) provides that an MEO is about requiring the child to attend a clinic, hospital or other establishment.	Will review the wording to provide greater clarity of intention.
Secure accommodation authorisations	s148-150	Concern that the panel should be the decision maker not the chief social work officer. Concern also that local authorities bear the financial burden when a child is placed in secure. It is suggested that there should be central funding of secure placements. Separately, it has been suggested that regulations made under s149-150 should be subject to affirmative procedure given that these issues are critical to the liberty and welfare of vulnerable children.	The procedure for making and implementing secure authorisations is designed to ensure sufficient flexibility to ensure that the restriction of a young person's liberty is kept to a minimum. We are working with stakeholders to retain appropriate flexibility while ensuring correct procedure and consistent practice. There are no plans to change the current funding arrangements for secure care, which maintains the link between the young person and the local area, though Cosla and Scottish Government are working on proposals to make the commissioning of secure care more strategic and thereby cost-effective. National commissioning of secure care is being taken forward with Cosla as part of the implementation of the Securing Our Future Initiative – there is no support from Cosla for national funding of secure care, which they appreciate could only be financed through top-slicing.	Meet stakeholders in September to agree the content of regulations to underpin the existing authorisation process, having achieved general support for this as the way forward.
Secure accommodation authorisations	s148(1)(a)	Concern that panels will not always know where a secure place is available so how can they specify a single establishment.	This reflects current legislation and practice	No further action at this stage.
Business meetings	s151	Concern that business meetings are a decision making forum that the child and Reporter are excluded from. It is also argued that there should be the possibility of appeal against	This is based partly on s64(1) and (3)(a) of the 1995 Act	No further action at this stage.

		<p>decisions taken in business meetings, as envisaged in s64(5) of the 1995 Act.</p> <p>Separately we have heard that local authorities should be among those able to request a business meeting given a social workers relationship with the child and family. There is also concern that a power to allow social workers to request that a child be excused from a business meeting has been left out of the draft Bill.</p>	<p>The current wording of the draft Bill is considerably different from that of the 1995 Act. The new provision allows for an actual meeting or a paper based decision and enables the attendance of child and relevant person.</p> <p>We do not consider it appropriate for local authorities to request a business meeting.</p> <p>At present, a child does not attend a business meeting, rather provides views in writing to the Reporter who relates these to the panel.</p>	
Chairs of hearings	s153(3) and elsewhere	<p>Concern about numerous references in the draft Bill to decisions being taken by the "chairing panel member" rather than by the consensus of the 3 panel members. This seems to confer additional status and responsibility on the person chairing. Nor is it clear whether/how this arrangement would work in practice.</p>	<p>We acknowledge this point.</p>	<p>We will amend the Bill accordingly.</p>
Receipt of papers in advance of a hearing	s158-160	<p>That the standard should be changed from 3 days to 3 "working" days in order to ensure that children, families and panel members have the necessary time to adequately prepare for a hearing.</p>	<p>We acknowledge how important it is, particularly for the child and their family that they have the information and time that they need in order to be fully prepared for a hearing. We also recognise that giving panel members enough time to prepare for hearings is an important element of the help and support they need.</p>	<p>Consider with partners whether to amend the Bill to 3 working days.</p>
Provision of documents to the child	s159	<p>The right for children to receive papers should be enshrined in law. There is concern however that children should have access to all relevant information in a format that is accessible and safe for them. A safeguarder should be appointed to protect the interests of a child whenever a decision is made to withhold information from a child. The safeguarder would receive the information and help the child to understand the substance to the extent that this was practicable and in the interests of the child. Separately it has been argued that children need advocacy support in order to enhance their opportunities to participate.</p>	<p>We agree that children should have a statutory right of access to papers, but that such papers should not include information that is harmful to the child, and that such information should be presented in an accessible way. We believe that the role of presenting information to the child can be performed by a variety of suitable people e.g. parent, social worker, Safeguarder, but we do not believe a Safeguarder would be required in every case where information has been withheld from the child. Children's</p>	<p>No further action at this stage with regard to children receiving papers.</p> <p>Look again at the wording of s159(7).</p>

		It is also noted that s159(7) provides a presumption that children under 12 do not have the capacity to understand children's hearings documentation. This is in contrast to s39(9) and s2(4A) of the Legal Capacity (Scotland) Act 1991 which provide that a child of 12 or over should be presumed to have capacity. It is argued that SG should revisit this to ensure consistency.	hearings should have the flexibility to make those decisions according to the situation before them, rather than having the appointment of a Safeguarder prescribed in advance by statute.	
Withholding information from others	s160 s170	There should be provision to permit the withholding of information about children and young people's views in specified circumstances to help ensure that children do not feel insecure about what might happen to information about them. Also concern that when a recognised carer is excluded in order to allow a hearing to hear the views of the child, subsection (3) (that what they say will be summarised for the recognised carer) will mean that children still don't feel comfortable having their say.	This is a complex issue and one which touches on the rights of children and adults.	We are considering how we might accommodate the privacy of the views of children.
Age and maturity of child	s167(3)(c)	Concern that the age and maturity of a child should not in themselves be a reason to excuse (other than when establishing grounds). There may be benefit to panel members in seeing a child's interaction with others.	This section provides the panel with a power to excuse a child if it considers it is in the best interests of the child to do so. It does not confer a duty on the panel to do so. This provides the panel with the flexibility to make informed decisions on what is the best course of action in a specific situation.	No further action at this stage.
Excusing child from grounds hearing	s167(4)	Concern that children should be excused from grounds hearings when "difficult" issues are being discussed – not just because they don't understand as the draft Bill suggests.	It is a fundamental element of the hearings system that both child and relevant person accept the grounds, or if that fails, these are established by the sheriff. It ensures that the views of the child are always heard	No further action at this stage.
Relevant carer failure to attend hearing	s168(4)-(5)	Concern that the draft Bill makes it an offence for a recognised carer to not attend a hearing and makes them liable to be fined. Is this new? What will the role of panel members be in this?	This reflects the current legislative position. However, the panel has the power to excuse the relevant person from attendance if they consider it appropriate.	No further action at this stage.
Right of child's representative to attend	s171	The list of those with the right to attend does not include the child's representative. Concern that this is a serious omission. These representatives play an important role in ensuring that the voice of the child is heard in the decision	We are fully committed to maintaining the right of children to bring a representative to hearings. This section is based on s43, 45(1)(a) and 45(8)(a) of the 1995 Act. Currently	Provide for a similar right in the bill or in secondary legislation.

		making process. Also concern that the right of the Reporter to attend should be re-instated.	the statutory right of a child's representative to attend is in secondary legislation - Rule 11(1) of the 1996 Rules.	
Legal representation of children	s171	Children's hearings should not be adversarial, however the pursuit of a child-friendly context for hearings cannot be an excuse for the denial of children's rights. Children should have both the right and the opportunity to be represented at hearings. A code of practice may well be a positive way forward to address some of the challenges of ensuring that children's rights are protected effectively, whilst the integrity of the hearing system is maintained.	The Children's Hearings (Legal Representation) (Scotland) Rules 2002, as amended in 2009, contain the provisions for legal representation for children and relevant persons in children's hearings. There will be further provision about legal representation in the Bill which was not included in the previous draft Bill. .	We intend to outline proposals for a permanent scheme for the provision of state-funded legal representation in children's hearings.
Permission to attend a hearing	s171(3)	The draft Bill gives child or recognised carer the final say in who attends a hearing. Concern that this will make management and control of hearings very difficult.	No other person may attend a children's hearing unless the chair of the hearing considers that a person's attendance is necessary for the proposer consideration of the case. The chair has discretion to permit any other person to attend the hearing if the child and relevant persons do not object.	No further action at this stage.
Publishing restrictions	s178-179	Concern that there should be specific reference here to international standards in relation to decisions by sheriffs and Scottish Ministers in order to protect the rights of children to privacy. It is also argued that it should be an absolute offence to disclose protected information and that Ministers should not have the discretion (s179(5)) to decide that no offence has occurred retrospectively. Conversely it is argued that making it an offence to publish this information might deter future volunteers. Resignation is already required for non-malicious release of information and this is considered sufficient.	Sections 179(3) to 179(5) are based on section 44(5) of the 1995 Act. Existing s44(5) gives a discretion to find that no offence has been committed but does not set out the circumstances in which a defence might be raised - the accused could not feel any certainty about how the discretion might be exercised. We believe it is better instead to create a defence in cases where public interest outweighs the protection/best interests of the child. We believe prohibition on publishing information is essential to protect the privacy of the child, and we do not believe the provision could deter future volunteers – this provision is intended mainly for journalists and their publishers (although it also includes individuals such as panel members, reporters, social	Not amend these sections of the Bill at this stage. We will however consider how we can best reference international standards such as the UNCRC (to which the Bill adheres) in the accompanying documents to the Bill.

			workers, parents and relatives).	
Review by sheriff of hearing's decision	s180	<p>Concern has been raised by most of our key partners that, as drafted, the Bill gives the sheriff the power to "review" the decision of a children's hearing. This is a wider power than is currently allowed for the under the Children (Scotland) Act 1995 which provides for an "appeal" and there is concern that this will allow a sheriff to replace the hearing's decision with their own. Allowing a full review will weaken rather than strengthen the hearings system and will make it more adversarial and contrary to Kilbrandon principles. It could result in the court rather than hearing being the de facto focus for many cases, as getting in which it is far harder for the voice of the child to be heard. Partners have suggested that we revert to the 1995 Act language to help ensure that existing practice (ie that a sheriff can hear an appeal against a decision but not review that decision and possibly impose a different disposal) continues.</p> <p>Concerns have also been raised that allowing a sheriff to make important decisions about a child without a hearing (and in the absence of the child) runs counter to Article 12 of UNCRC which provides that the child has the right to be heard in matters which affect them.</p>	<p>Understand the concerns raised by this section which is based on s51 of the 1995 Act.</p> <p>It was not our intention to alter the law on appeal, rather the aim of the provisions in the Bill was to clarify the intention of the 1995 Act. The draft Bill does not make a fundamental change to the existing powers of the sheriff. It is not anticipated that a Sheriff would review every case, but would have the power to do so if that was necessary in particular circumstances (as they can do at present).</p>	Will review the wording of the draft Bill on this point to provide greater clarity of intention.
Role of safeguarder in appeals	s180	Concern that safeguarders should have the right to sign appeals on behalf of the child, in particular very young children who cannot make their own representations.	We accept how important it is for all children to have the opportunity to appeal the decision of a hearing.	Amend the Bill to give safeguarders the right to sign appeals on behalf of children.
President's report of hearing	s181(1)(c)	Concern as to what this report will contain, what status it has, and whether it supersedes the reasons stated by the chair of the children's hearing, in the case of conflict. It is presumed that this is to help the Reporter if/when conducting an appeal but would be better if Reporter attendance at hearings is retained.	We acknowledge these concerns which are of course closely linked to our wider ongoing consideration of the role of the Reporter.	Take account of these comments in considering the future role of the Reporter and links with the new body.
Appeals from determination of sheriff	s192	Concern that an appeal can only be made after the sheriff has considered whether to review the decision. There is no mention of the safeguarder being able to appeal.	This is a newly submitted comment.	Will consider further.
Miscellaneous	s194-201	These provisions should be expressed in the relevant sections rather than here.	These sections do not relate obviously to particular sections of the draft Bill.	Nothing further at this stage.

Absconding	s199	Concern that this section suggests that a child can abscond from home if that is the place named on a supervision order. This is not currently the case.	This is based on s82 of the 1995 Act and provides that a child who has left a place of safety or residential establishment may be arrested without warrant and returned to that place of safety. This place of safety could be with a foster carer or relative.	No further action at this stage.
16 and 17 year olds	s208	Concern that the provision excluding over 16s from the Act (unless they have been the subject of a compulsory supervision order before turning 16) should be without prejudice to s49(6) of the Criminal Procedure (Scotland) Act 1995 which allows the court in considering disposal to seek information from a children's hearing or to remit the case to a hearing for disposal.	A children's hearing only has jurisdiction over children as defined in s93(2)(b) of the Children (Scotland) Act 1995. The policy aim is to replicate this situation under the 1995 Act and it appears that section 208 does not properly achieve that.	We will amend this section to maintain the current legislative provision.
The Children's panel	Sch 1	Concern that the President has significant powers to appoint and remove panel members but it is not clear how they will be held to account or what redress there will be for panel members who are removed.	The President will be accountable to Scottish Ministers. The President will need the consent of the Lord President of the Court of Session when removing a panel member. This will continue to be a very stringent and robust process. The President, as a public authority, will be subject to the normal provisions of administrative law.	Amend the Bill to reflect the role of the Lord President in consenting to the removal of panel members.
Appointment of panel members	Sch 1, para 1	Concern that an independent commission is required in order to make recommendations to the President on people who it would be appropriate to appoint as a panel member in order to observe the Latimer House principles. Concern also that the President and their ASTs will have a direct role in both appointing panel members to particular hearings and in removing panel members where concerns exist.	We do not accept the need for an independent commission. We intend that Area Support Teams will provide impartial advice to the President on panel member appointments in the way that CPACs currently advise Scottish Ministers. In looking to streamline the system and reduce bureaucracy we could not support the creation of an independent commission to carry out this kind of role. The process for the removal of panel members will not change in practice. The President will need the consent of the Lord President when removing a panel member.	Nothing further at this stage with regard to an independent commission.
Different classes of case	Sch 1, para 7	Concern about reference to there being "different classes of case" in the context of panel member expenses and the	There is no intention to create different categories of panel member - this wording	We'll make our intention clear in the bill's accompanying

		implication this carries that there will be different categories of panel member.	comes from Schedule 1 of the 1995 Act. It provides for different levels of expenses depending on the circumstances e.g. type/timing/location of hearing.	documents. We do not propose to amend the Bill at this stage.
Removal of panel members	Sch 1, para 11	Will the existing arrangements under which any proposed removal of a panel member by Ministers must be done with the consent of the Lord President of the Court of Session continue to apply when the power to remove is passed to the President? It is argued that the requirement to obtain the consent of the Lord President should be specifically enacted.	We agree that consent of the Lord President should be required.	Amend the draft Bill accordingly
Representation of children at hearings	-	Concern that the current framework is complex with various actors having a role in representing the child and it is not always clear, in particular to children and families, who is charged with representing the views or interests of the child. It is suggested that it would be helpful if all the provisions on representation in both primary and secondary legislation were brought together on the face of this Bill – this would be in keeping with the fundamental principles of the UNCRC and Article 6 of ECHR. Separately it has been suggested that all children and young people in the hearings system should have access to advocacy support.	We accept that a number of children and families find the hearings system complex. We accept that there needs to be a clear legal framework around the representation at hearings but perhaps more importantly we need to ensure that all children and families are given easy and accessible information that helps them understand the process better, including the roles of the various adults involved.	We will consider how best to make clear, in legislation and supporting guidance and information, the roles and responsibilities of different parties with regard to representing the views or interests of the child. We believe that all children and young people in the hearings system should have equality of opportunity to having their views heard. We will consider how best to achieve this, whether in legislative or practice terms.
Time off for panel members	-	Concern that panel members in employment are finding it increasingly difficult to get time off for hearings. The draft Bill does nothing to support them in this.	We recognise this concern. Improving support for panel members is a key aim of the reform. The legislation governing employment law is a reserved matter and change is not therefore within the powers of the Scottish Parliament.	Discuss these concerns further with panel members and employers and consider what action we can take to ensure that panel members are enabled and empowered to take the necessary time off work.