

# Supporting 16- and 17-Year-Olds in Children's Hearings



By Andrew James



The Children (Care and Justice) (Scotland) Act 2024 includes a number of changes to the Children's Hearings System, some more significant than others. For Children's Hearings Scotland (CHS) and the Panel Members they support, the main change is the increase in the age of referral to the Reporter. The Act changes the definition of a child to someone under the age of 18. The effect of this is that any child under the age of 18 can be newly referred to the Scottish Children's Reporter Administration (SCRA) to arrange a Hearing, even if they've never had a Hearing before.

Ahead of this change in law, CHS spoke with Panel Members to discuss any concerns that they had about supporting 16 and 17 year olds in Hearings and work out whether extra training could be given to help them. CHS started to make training resources based on what the Panel Members told them. CHS wanted to make sure that young people with experience of Hearings had the chance to feed into the training resources too. In order to make sure that they were getting the right message across, CHS worked with me and another young person at Our Hearings, Our Voice (OHOV) to discuss what matters to older children, what is important for them in a Hearing, and what they needed to make sure Panel Members understand about young people of this age.



One of the primary concerns we had was about Panel Members not knowing how to engage with 16 and 17 year olds due to their limited interactions with young people of that age group in Hearings. Other OHOV members have faced issues with this in the past and have stated that they have felt talked down to from Panel Members or have not felt listened to, as some Panel Members are not accustomed to conversing with people of this age group in Hearings.

We weren't sure if Panel Members would actually be aware of the additional rights of 16 and 17 year olds, compared to younger teenagers. For instance, at 16, a young person can legally live on their own, and many of them might choose to do so. Care-experienced people also have some enhanced rights on top of this, e.g. financial support towards further education. They may not know about these entitlements, but with appropriate training, perhaps Panel Members would be able to highlight their rights to them.

Early on in this project, CHS approached OHOV to see if any of us would be interested in taking part in an activity regarding what legal rights 16 and 17 year olds have. To do this they made a timeline from age 0 to 18 and had a pile of rights that young people have, on slips of paper. There were many different rights that were laid out such as the right to buy your own pet, work a 35 hour week, and give up your child for adoption.

We were then asked to place these according to where we believed they sit on the timeline. We managed to get quite a lot of the rights correct, but there were many that either we got a little bit wrong or were completely unaware of. However, the young people at OHOV are more aware of our rights than others our age due to the nature of the work that we do.

We decided to do a smaller version of this activity at the CYCJ National Youth Justice Conference to see how the adult delegates would do. Some of them did quite well but there were others that were quite a bit off from the correct answer. This highlights the fact that if the adults who work with the young people are not fully aware of the rights that young people have, how can they be expected to inform us of them?



As well as possibly being unaware of the additional legal rights that 16 and 17 year olds have, and the enhanced rights of care-experienced young people, another concern that is often brought up by OHOV board members is the preconceived beliefs that Panel Members may have about 16-and 17-year-olds' behaviour, and our potential. For example, one of our board members felt patronised when a Panel Member praised her for getting into university, saying **'well done, most care-experienced young people your age are out getting into trouble with the police.'** We feel Panel Members may have preconceived ideas that 16 and 17-year-olds are all drinking and doing other things that would be considered 'bad young people behaviour'. In saying that, some young people of that age group will be engaging in more risk taking behaviour, but adults shouldn't assume that right off the bat. If Panel Members discover a young person is doing these behaviours, support is more helpful than judgement.

In terms of support, we thought about the types of things 16 and 17-year-olds might need help with from Panel Members, and organised these into 3 main categories:

★ First is the right to information. One of the main rights to information that care-experienced young people have is to request access to their paperwork when they turn 16. And as such our right to access it should be respected by all those who come into contact with it and not be inhibited based on their own opinions. Many of our board have faced issues with accessing their paperwork from social work, and, if paperwork was received, there was little explanation given regarding its contents. One of the Board Members for OHOV said **‘Let me decide if I am old enough to read and understand what is happening – ask me how I feel about this’** Panel Members need to be aware that at 16 and 17 we are our own person and have the right to be heard independently of any adults, should we wish it. Being aware of this right and supporting it can help all the young people who wish to find out more about their own past and will ensure that our rights are being upheld.

★ Second is our right to support. It is essential that the services available to us are signposted to ensure our wellbeing. An important thing that should be considered is that by the time we are 16 and 17 we are not as innocent as we would have been at 6. We may be doing many things such as drinking, drugs or going out at night. But instead of judging us, adults should help us, signpost support, and try and understand what may be causing this rather than condemning us for doing it. Remember that at one point you may have been doing the exact same thing.

★ Our third category was rights respecting language. Our main ask was to treat us as an equal. Speak to us like an equal, and don't patronise us. Remember to try and personalise your communication with us by asking what we would prefer things to be referred to. For example, try to stop using acronyms like **CSO, LAC, CPO**, and explain them to us instead. You can also ask how we'd like to refer to the important things in our lives; for example, a young person might call their foster mum **‘mum’, ‘my foster mum’, or ‘Jennifer’**. Using the wrong term can make young people uncomfortable. Furthermore, there is a need to respect our journey in the language used. Don't tell us we are ‘resilient’ or ‘success stories’ – in many ways that invalidates the journey we have had to get here. A main point to remember is that you don't know what we would have been like without our trauma and that many of us would give everything we have to not have our trauma and past.

● I am hopeful that the new training CHS is developing will support Panel Members to listen to young people in their Hearings, which is critical to the success of a Hearing in this age group. I am thankful that this Act has come to fruition as I believe the change in the law will help to support young people and prevent some from going down a life of crime and will instead attempt to put them on a better path. I hope that the view that I have provided will assist CHS in improving the Children's Hearings System in preparation for the changes to the law.

**-Andrew James, Our Hearings Our Voice board member**