

Thursday 27 January 2022

By email to: [Looked After Children@gov.scot](mailto:Looked_After_Children@gov.scot)

ADCS submission to the Scottish Government's consultation on cross-border placements of children and young people into residential care in Scotland

1. The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the *Children Act (2004)*. The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to make a submission to this important consultation by the Scottish Government.
2. ADCS welcomes moves to recognise the inherent jurisdiction of the high courts in England and Wales in Scots law, with the benefit of freeing up time and resources in both the courts and local authorities whilst reducing delays and/or uncertainty for some of the most vulnerable children and young people in our care at a time of crisis.
3. The policy paper accompanying this consultation sets out a series of additional conditions to support this change in advance of more fundamental reforms to be considered during the current parliamentary term via a new Children's Care and Justice Bill. ADCS will address each of the proposals in turn:
 - a. We agree that responsibility for meeting the child's needs should remain with the placing authority as the alternative i.e. an increased role for the receiving authority where the secure children's home happens to be located, will likely cause further disruption and confusion via the introduction of an even greater number of professionals into a child's life at the point of crisis. There would likely have been implications for our workforce too in engaging in a separate process and not insignificant practical barriers in marrying up different legal and regulatory frameworks
 - b. Converting a Deprivation of Liberty (DoLs) Order into a Compulsory Supervision Order (CSO) under Scots law is a pragmatic and sensible approach, as is the building in of regularised review points
 - c. Whilst we absolutely support collaborative working in children's interests, ADCS does not support the convening of a children's hearing in the host authority. The complexities of different legal, legislative and regulatory systems either side of the border should be noted as well as the temporary nature of many of these placements, typically made when a child is in crisis
 - d. There is not a directly comparable safeguarder role in the English system, ADCS understands appointments are usually made in contentious or contested cases so would welcome further discussions on this proposal. We are concerned this risks adding yet another

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professional into an already crowded space for a child in profound crisis. A child who may already have half a dozen adults involved in their care, if not more. This will likely include their social worker as well as an independent reviewing officer, a complex safeguarding specialist, a youth justice worker and a mental health worker plus someone from the virtual school

- e. ADCS supports the proposal for the DCS to notify the Chief Social Worker in the relevant host local authority of a placement, a similar expectation is in place in England and, over time, ADCS has developed a [central index](#) of contacts to support this in practice. This resource could easily be expanded to include Scottish contacts, as required
 - f. It is not entirely clear what benefit a multi-agency discussion will bring given the placing authority retains care planning and corporate parenting responsibilities. We would welcome further discussions on this proposal. It might be that this requirement is not applied to all placements but perhaps those where specific risks are present e.g. known gang involvement
 - g. ADCS would welcome the development of non-statutory agreements to facilitate cross-border working. As the policy paper sets out this could usefully address practical ways of working and information sharing, to ensure children and young people's rights and needs are not hindered by confusion or uncertainty arising from differing legislation, regulations, expectations and guidance on either side of the border. This might usefully include clarity on the types of information the host authority might expect to receive from the placing authority e.g. a copy of the DoLs authorisation, the child's care plan and accompanying risk profile.
4. Members of ADCS would welcome the opportunity to discuss these short-term plans further with representatives of the Scottish Government as well as inputting into longer term plans aimed at reducing the use of cross-border placements via the development of new legislation. Please contact the relevant policy officer in the first instance via katy.block@adcs.org.uk.

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