



Law Society  
of Scotland

# Consultation Response

## Regulation of Child Contact Centre Services

July 2021



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Child and Family Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government consultation, *Regulation of Child Contact Centre Services*.<sup>1</sup> The sub-committee has the following comments to put forward for consideration.

## General comments

We supported the regulation of child contact centre services through the passage of the Children (Scotland) Bill through the Scottish Parliament<sup>2</sup>. It is important to ensure that standards for the sector are both sufficiently robust to protect the welfare of the children involved, while also flexible enough to meet the individual needs of families and the services available in local areas across Scotland. Ensuring that standards are maintained will require adequate resourcing, so that accommodation is fit for purpose and that staff and volunteers appropriately trained. It is also important to note that the sector has a large proportion of volunteers; the consultation notes that one provider has 46% of its staff working as volunteers.

Solicitors regularly refer parties to child contact centre services and the consultation paper notes that 79% of referrals are either from courts or solicitors. There is a duty under section 11 of the Children (Scotland) Act 2020 for solicitors to refer only to regulated child contact centres and that a failure to do so may be considered professional misconduct or unsatisfactory professional conduct. It is important that solicitors can rely on accurate information around the status of a child contact centre service to ensure compliance with this duty. Ensuring a publicly available register, and understanding when and how often this will be updated will assist in this duty. Some clarification around options suggested in the consultation, particularly around the authorisation of centres on an ad-hoc or emergency basis, or whether a centre will remain registered while appealing any removal decision, will also assist.

<sup>1</sup> <https://consult.gov.scot/justice/regulation-of-child-contact-centre-services/>

<sup>2</sup> <https://www.lawscot.org.uk/media/369315/children-bill-stage-3-briefing-final.docx>



## Questions

### 1. How important do you feel it is that each of the following areas are included in the regulations for minimum standards of accommodation?

(Very important, somewhat important, fairly unimportant, very unimportant)

- are clean, bright, warm, well maintained and well ventilated
- are safe and secure (including any outdoor areas), free from avoidable hazards, and have a secure entry system
- have toilets and nappy changing facilities and (where available) kitchen facilities that are in good condition with access to hot and cold water and compliant with existing environmental health and safety requirements
- have furniture, soft furnishings, toys and equipment (including outdoor play equipment) and appliances/fittings that are in good condition and compliant with health and safety requirements, including British Standards Institution (BSI) safety standards
- have adequate space to meet the needs of children and families using the centre, including sufficient waiting areas
- have at least two separate entrances/exits, where possible
- have access to age appropriate and good quality play equipment and play spaces, including outside space where possible
- have clearly defined emergency evacuation plans in place that staff, parents and children are aware of and that are well signposted
- have fire safety equipment that conforms with BSI safety standards
- have a first aid box

**Do you have any further comments regarding your selections?**

It is important that all of the above areas are included in the regulations for minimum standards of accommodation. We consider it particularly important that contact is able to take place in a safe and comfortable environment, and we would therefore suggest that it is very important that premises are clean,



bright, warm, well maintained and well ventilated; are safe and secure, free from avoidable hazards and have a secure entry system; and have at least two separate entrances/exits where possible.

**2. Are there any other areas that should be considered for the minimum standards for accommodation?**

**Yes**

**No**

**Don't Know**

**Why did you select your answer? If you have answered yes, please list the areas you consider should be covered.**

See answer to question 9, below.

**3. Do you agree with the proposed process for and frequency of inspections for a providers registered premises?**

**Yes**

**No**

**Don't Know**

**Why did you select your answer?**

The proposals set out in the consultation document in respect of the process for and frequency of inspections appear proportionate.

We would suggest that inspection reports should be made publicly available by the body appointed to oversee regulation.

**4. Do you agree/disagree with the proposed sanctions for non-compliance with the accommodation standards?**



**Agree**

**Disagree**

**Don't know**

**Why did you select your answer?**

The proposed sanctions for non-compliance set out in the consultation document appear to be appropriate. In particular, it is important that a mechanism exists by which a child contact service could be removed from the register for persistent non-compliance with the accommodation standards.

**5. Should the same minimum standards that apply to registered premises also apply to alternative premises?**

**Yes**

**No**

**Don't know**

**Why did you select your answer?**

As the minimum standards are intended to provide a base line requirement for premises where child contact sessions take place, we consider that the same minimum standards should apply regardless of whether the child contact is taking place in registered premises or in alternative premises.

**6. Are there any other areas that you think should be included in the minimum standards for alternative premises used on an ad hoc basis?**

**Yes**

**No**

**Don't know**

**Why did you select your answer? If you have answered yes, please list the**

### **areas you consider should be included**

As above, we support a consistent set of minimum standards for registered premises and alternative premises.

#### **7. Do you agree/disagree with the proposed process for inspections for alternative premises used on an ad hoc basis?**

**Agree**

**Disagree**

**Don't know**

#### **Why did you select your answer?**

The proposals set out in the consultation document in respect of the process for inspections of alternative premises appear proportionate, subject to our comments in response to question 8 below.

As above, we would suggest that inspection reports should be made publicly available by the body appointed to oversee regulation.

#### **8. Should a contact centre provider be able to self-certify a premises as appropriate in situations where alternative premises are required unexpectedly or in an emergency?**

**Yes**

**No**

**Don't Know**

#### **Why did you select your answer?**

We have some concerns regarding the proposal that a contact centre provider may be able to self-certify a premises as appropriate. Whilst the consultation document makes reference to situations where alternative premises are required unexpectedly or in an emergency, it is our experience that child contact arrangements are generally planned well in advance and it is difficult to envisage a situation where an

unexpected or emergency arrangement would be required. We would have concerns regarding the possibility of minimum standards not being met where premises are self-certified at short notice.

Whilst we recognise that emergencies such as floods or fires may occur, providers could be encouraged to identify alternative premises in advance so that such eventualities could be accommodated within the inspection and monitoring arrangements for alternative premises.

If certification in unexpected or emergency situations is allowed under this scheme of regulation, it is important that public notification is made. As there is a duty under the Act for courts and solicitors to refer to regulated child contact centre services, certainty that a service is regulated is necessary in order to comply.

**9. Do you think the proposed arrangements to help ensure compliance with existing duties under the 2010 Act in relation to disabled access at child contact centres are adequate?**

**Yes**

**No**

**Don't Know**

**Why did you select your answer?**

Whilst we note that Scottish Ministers cannot change the existing duties or legal enforcement powers in this area, consideration could be given to further strengthening compliance with existing duties under the 2010 Act by making express reference to those existing duties within the minimum standards for accommodation.

**10. These are the key areas we consider staff and volunteers in child contact centres working with children and families should be trained in under the proposed standards (other than staff or volunteers carrying out administrative or maintenance roles)**

**Please rate each on whether you feel it should be: Required for all staff (except those in administrative roles), Desirable for some staff to complete, but not required for all staff, or Not required for any staff to complete.**

- **child protection**

- understanding domestic abuse, particularly the dynamic of coercive control
- understanding the ways adults can influence a child
- working with families in conflict
- responding to children's needs and behaviour
- child development, including learning disabilities and developmental disorders
- risk assessments
- parental mental health
- drug and alcohol misuse
- awareness of other services that are available for children and young people
- proficient recording of contact
- reporting on contact
- observing supervised contact
- complaints handling

### **Do you have any further comments regarding your selections?**

It is important that staff and volunteers in child contact centres working with children and families should be appropriately trained to fulfil that role. It is also important that training requirements are proportionate and not unduly burdensome for service providers, taking account of the staffing levels in individual centres and the nature of the services they provide. Other organisations will be better placed to comment on the specific proposals set out in the consultation document.

- 11. These are the areas we consider that it may be desirable for certain staff at the child contact centre to have training in depending on their role, but that these wouldn't necessarily be required as minimum standards under the regulations.**

**Please rate each are on whether you feel it should be: Required for all staff as a minimum standard (except those in administrative roles), Desirable for some staff to complete, but not required for all staff, or Not required for any staff to**



**complete.**

- **an introduction to trauma**
- **adverse childhood experiences**
- **positive transitions**
- **attachment theory in child development**
- **brain development**
- **working with families where English is not their first language**

**Do you have any further comments regarding your selections?**

See our answer to question 10, above.

**12. These are the areas we would not plan to lay down as minimum standards under the regulations, but we would expect providers to ensure that members of staff have an awareness and understanding.**

**For each area please indicate whether you Agree or Disagree with the proposed approach or if you Don't Know.**

- **health and safety**
- **equality and diversity**
- **confidentiality and disclosure of information**
- **anti-harassment and anti-bullying**
- **medication and nutrition**
- **disciplinary/whistleblowing**
- **practicalities of child contact centre management/admissions**

**Do you have any further comments regarding your selections?**

Confidentiality and disclosure of information are likely to be particularly relevant to the work of child contact centre staff, and we would therefore suggest that consideration should be given to including this in training for all staff under the proposed standards. Similarly, equality and diversity considerations are likely to be particularly relevant and consideration should be given to including this in training for all staff under the proposed standards. See our response to question 9.

The coronavirus pandemic has highlighted the importance of health and safety. Contact centres are used for a range of ages with a high percentage of those being young children, and volunteers may also be young and inexperienced. In these circumstances, consideration should be given to including health and safety training for all staff under the proposed standards.

**13. Are there any other areas that should be considered for child contact centre staff training standards?**

**Yes**

**No**

**Don't Know**

**Why did you select your answer? If you have answered yes, please list the areas you consider should be covered.**

Child contact centre staff regularly provide reports to the court. There is currently a variation in the quality and content of these reports. It may be helpful for those staff involved in preparing such reports to be given standard training to assist them in this aspect of their role.

**14. Do you agree/disagree with the proposed process for monitoring of training requirements?**

**Agree**

**Disagree**

**Don't Know**

**Why did you select your answer?**

To ensure that training is effective and appropriate, it will be necessary to ensure adequate resourcing of centres to be able to meet these requirements. The training requirements for staff may be extensive, and potentially onerous for smaller providers of child contact centre services. Bearing in mind the potential overlap in training areas for child contact centre services, the training requirements being considered in the consultation<sup>3</sup> on the register of child welfare reporters and others and training in other areas, such as for safeguarders, solicitors and others, there may be opportunities to develop shared knowledge and competency requirements to ensure best practice.

**15. Do you agree/disagree with the proposed process for raising complaints against a child contact service?**

**Agree**

**Disagree**

**Don't know**

**Why did you select your answer?**

The proposed process would appear to be fair and proportionate. It is appropriate that those raising complaints against child contact services should be able to escalate their complaint to the Scottish Public Services Ombudsman.

**16. Do you agree/disagree with the proposed process for raising complaints against individual members of staff and volunteers?**

**Agree**

**Disagree**

**Don't know**

**Why did you select your answer?**

<sup>3</sup> <https://consult.gov.scot/justice/registers-of-child-welfare-reporters/>



Processes for raising complaints against members of staff and volunteers must recognise the significant role played by volunteers in child contact centre services, but must also ensure that minimum standards are met by all staff, whether voluntary or paid.

**17. Do you have any suggestions on how guidance on complaints procedures should be made accessible to children using child contact centre services?**

**Yes**

**No**

**If yes, please outline these suggestions.**

It is important that guidance on complaints procedures is made accessible to children using child contact centre services. Other organisations will be better placed to comment on how this can best be achieved.

**18. Do you agree/disagree with the proposed process for a child contact centre raising complaints against the regulatory body?**

**Agree**

**Disagree**

**Don't know**

**Why did you select your answer?**

The proposed process would appear to be fair and proportionate.

**19. Should the right to appeal by a child contact centre of a decision made by the regulatory body be to the sheriff court?**

**Yes**

**No**

**Don't know**

**Why did you select your answer?**

An appeal to the Sheriff Court appears proportionate, rather than, for instance, the Court of Session. It would be helpful to clarify whether the appeal would be restricted to a point of law, or whether permissible to examine the facts of the decision.

**20. As we continue to develop these policy proposals and work to understand their potential impact, do you have any comments about, or evidence relevant to, any of the following:**

- a. the draft Business And Regulatory Impact Assessment Yes/No**
- b. the draft Child Rights and Wellbeing Impact Assessment Yes/No**
- c. the draft Data Protection Impact Assessment Yes/No**
- d. the draft Equality Impact Assessment Yes/No**
- e. the draft Fairer Scotland Duty Assessment Yes/No**
- f. the draft Islands Impact Assessment Yes/No**

**If you have answered yes please provide your comments**

We have no comments to make.

**21. Do you have any further comments?**

**Yes**

**No**

**If you have answered yes please provide your comments below.**

We have no further comments.



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