

## **DUNDEE CITY COUNCIL**

**REPORT TO:** **SOCIAL WORK COMMITTEE - 18 OCTOBER 2004**

**REPORT ON:** **THE CHILDREN'S RIGHTS SERVICE ANNUAL REPORT**

**REPORT BY:** **DIRECTOR OF SOCIAL WORK**

**REPORT NO:** **689 - 2004**

### **1.0 PURPOSE OF THE REPORT**

- 1.1 To inform members of the work undertaken by the Children's Rights Officer for children and young people looked after by Dundee City Council, for the year 2003/2004.
- 1.2 To provide members with a detailed report (attached) into the perspective adopted by the Children's Rights Officer and how this is applied by the service.

### **2.0 RECOMMENDATIONS**

It is recommended that the Social Work Committee:-

- 2.1 Notes and approves the annual report on the work of the Children's Rights Officer during the year 2003/04.
- 2.2 Instructs the Director of Social Work to consult with other Council departments, through the Children's Services Planning process, to examine the appropriate role for the Children's Rights Service in relation to children in need in the wider activities of the Council.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 There are no additional financial implications arising from this report.

### **4.0 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 The Children's Rights Officer has a specific role in providing the most vulnerable children in Dundee with access to knowledge and information, which will empower and enable them to participate in decisions affecting their lives. This creates opportunities to improve the quality of their lives in many social contexts.

### **5.0 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 This report will further promote the status of children and young people of all abilities looked after by the Council, to give them parity with other service users and protect them from discrimination.

## **6.0 MAIN TEXT**

### **6.1 Background**

6.2 The Children's Rights Service reaches its fifteenth year on the 1<sup>st</sup> December 2004. During this period the service has matured and developed as an advice, information and advocacy service for children and young people looked after by the Council and those with responsibility for their welfare. The service has a positive reputation throughout Scotland and Dundee City Council has a right to be proud for having the foresight to appoint the second Children's Rights Officer in the UK and the first in Scotland. Children's Rights Officers now exist in all but a few Councils in Scotland.

### **6.3 Update**

6.4 Throughout the past year, the Children's Rights Officer has continued to make a significant contribution to the work of the Social Work Department. This has been achieved through membership of appropriate strategic planning groups, facilitating consultation with young people, contributing to staff, volunteers, carers and Social Work student training events. The Children's Rights Officer has also expanded the Advice and Information service to all Council departments providing services for children looked after. The scope of the service has incorporated Education, Housing, BNSF and Economic Development.

### **6.5 Service Users**

6.6 Children and young people in the 12-16 years age bracket contact the Children's Rights Service predominantly, but not exclusively. Eligibility for the service is those young people who are looked after at home or looked after and accommodated in foster care, young people's residential units and residential schools in Scotland. This includes children with disabilities. A small number of service users are placed in care settings in England.

### **6.7 Advice and Information Service**

6.8 The advice and information service is available to both children and young people looked after and those adults with responsibility for their welfare. Requests for this service range from enquiries into straightforward matters regarding procedure, to requests for advice and information on complex children's human rights issues. Requests also come from Teachers, Youth workers, Panel members, elected members and others with an interest in children's human rights. The Advice and Information Service dealt with in excess of 350 referrals in the year 2003/2004.

### **6.9 Advocacy and Representation**

6.10 Children and young people have a basic human right to express their views and have them taken into account, in matters affecting their lives. Like all rights, this can be an empty concept unless young people are informed of the right and empowered to exercise it. The Children's Rights Service provides advice and assistance to children and young people, to express their views in meetings, reviews, Children's Hearings and other processes. Support is also offered to negotiate with Social Work staff, other Council employees, and staff in other agencies.

6.11 An important principle in advocacy is independence. The Children's Rights Officer works in partnership with the young person's worker from Who Cares? Scotland to provide the **Children's Rights and Independent Advocacy Service**. Who Cares? Offers organisational independence when supporting children and young people through advocacy, while the Children's Rights Officer is independent of operational duties. Working together offers children and young people choice in who they approach for support. The Who Cares? Worker has taken on the bulk of advocacy for young people looked after and accommodated in Dundee. The Children's Rights Officer is responsible for providing advocacy to children and young people affected by disability and those who are placed outwith Dundee.

Requests to Children's Rights Officer for advocacy service	Female 61	Male 55
TOTAL 116		

#### 6.12 **Secure Care**

6.13 Young people in secure accommodation are among the most vulnerable in our society. Most are there because of over-riding welfare concerns, often brought about by the treatment they received at the hands of adults. When a young person is made the subject of a secure order, the Children's Rights Officer is notified. Departmental standards require that contact is made within two working days of notification of a young person's placement in secure care and regular visits are arranged with the agreement of the young person. The Children's Rights Officer ensures that young people understand their rights in relation to their circumstances and gives advice and assistance when it is requested. Staff are made aware of the Children's Rights Officer's powers and duties and the range of assistance offered by the service. The table below refers to 17 individual young people who were admitted to secure accommodation, 10 of whom are female and 7 males. It should be noted that most of the young people had more than one contact with the Children's Rights Officer.

Contact visits by the Children's Rights Officer to young people in Secure Accommodation	Female 45	Male 31
TOTAL 76		

#### 6.14 **Disability Service**

The Children's Rights Service offers an advice, information and advocacy service to children and young people who are affected by disabilities. The service is also open to those adults with responsibility for their welfare. This service is expanding with the intention of promoting it further over the coming year.

The table below indicates the number of referrals received and relates to 17 individual children and young people.

Referrals relating to Children and Young People with Disabilities	Female 3	Male 50
Total 53		

**6.15 Complaints Service**

6.16 It is important that children and young people, who are looked after by the Council, either in residential care or in foster placements, are able to have their voices heard. One way of ensuring that their right to be heard is addressed is to have an effective complaints process. An important duty of the Children's Rights Officer is to ensure those complaints and concerns raised by young people, are given proper consideration by responsible officers. The role of the Children's Rights Officer is to enable young people to voice their complaints and offer assistance throughout the process, to resolution. Most complaints are resolved through mediation and negotiation with concerned parties. The table below indicates the number of complaints assisted by the Children's Rights Officer.

Complaints assisted by the Children's Rights Officer	Female 33	Male 20
TOTAL 53		

All recorded complaints were supported to resolution by the Children's Rights Officer.

**6.18 Conclusion**

- 6.19 The strategic role of the Children's Rights Officer (CRO) has many benefits in regard to the wider activities of the Council, ensuring greater compliance with the UN Conventions of the Rights of the Child and other corporate obligations imposed by the Children (Scotland) Act 1995 and the Human Rights Act 2002. This includes the responsibilities placed on elected members and officers in carrying out the duties of corporate parents in respect of children who are looked after by Dundee City Council.
- 6.20 The introduction of the partnership with Who Cares? Scotland has enhanced the advocacy service to children and young people looked after. The combined Children's Rights and Independent Advocacy Service is now a comprehensive service that offers choice to users of the service. The particular circumstances of children and young people looked after and accommodated make them vulnerable to discrimination and reduced life opportunities. The Children's Rights Officer is working, with other officers, to redress the balance.

**7.0 CONSULTATION**

- 7.1 The Chief Executive, Depute Chief Executive (Support Services) and the Depute Chief Executive (Finance) were consulted in the preparation of this report.

**8.0 BACKGROUND PAPERS**

None.

Alan G Baird  
Director of Social Work

Date: 7 October 2004



## **Children's Rights Service Annual Report 2003/04**

Dundee has a working tradition of embracing Children's Rights. Indeed, the first Children's Rights Officer to be appointed in Scotland was based in Dundee, under the auspices of Tayside Regional Council, in December 1998. During this time, it has continued to promote and develop a comprehensive advice, information and advocacy service for children and young people "looked after" by Dundee City Council.

The Children's Rights Officer provides advice and information about Children's Rights to employees across all sectors of Dundee City Council and elected members. This report informs those professionals of the developments and the work of the last year. The report also offers an insight into the notion of Children's Rights and tackles some of the myths and misconceptions about the perspective and the work of the Children's Rights Officer.

### **Partnership Update**

The Children's Rights Officer works in partnership with Young Person's Worker from Who Cares? Scotland, to provide an enhanced Children's Rights and Independent Advocacy Service. This service aims to improve and promote the involvement of children and young people, enabling them to participate in matters affecting their lives. The Who Cares? Scotland worker is able to offer the important element of structural independence and provides therefore, the bulk of the advocacy work for children and young people "looked after" in Dundee.

The Children's Rights Officer holds responsibility for providing:

- Advocacy to children and young people with disabilities;
- Advocacy to children and young people who are "looked after" and placed outwith Dundee;
- Advocacy and support to any child and young person "Looked After" in Dundee, who request it directly. The latter being in line with delivering a service which is responsive, flexible and offering choice;
- A strategic input that brings a Children's Rights lens to policy and consultation documents and procedures, ensuring these are consistent with the United Nations Convention on the Rights of the Child ( UNCRC ).

The Children's Rights Officer and the Who Cares? Scotland Young Person's Worker, have a close working relationship and regularly liaise over themes and issues that emerge from contact with young people. Confidentiality is a guiding feature in all aspects of work with children and young people and would only be broken if there was a risk of harm to the young person or others. Both workers have created a support group for young people who are "looked after and accommodated". This group gives young people the opportunity to express their views and gain peer support. It will also serve as one mechanism for consultation for future planning and policy.

## **Children's Rights, An Introduction**

Children's Rights are a set of entitlements for all children. These entitlements are set out in Articles in United Nations Convention on the Rights of the Child (UNCRC) which took 10 years to develop and has been ratified by the UK government. The UNCRC was formally adopted by elected members in Dundee in 1995. This means essentially, that we are committed to ensuring that statute, policy and local procedure is consistent with the articles set out in the UNCRC, which grants children throughout the world a comprehensive set of social, political and civil rights. These are designed to take into account the child's vulnerability, particular needs and "evolving capacity".

The UNCRC does not give children unfettered rights. Children, like adults, must respect the rights of others. The UNCRC is also designed completely around children's lives and needs and includes, for example, the right to be safe, the right to play and the right to education.

The Children's Rights service operates on the basis that children and young people's lives are valid at this point and that the worth and abilities of children and young people are not bound to the notion that one day they will become adults. Children and young people are particularly vulnerable to discrimination, which the Children's Rights service is committed to challenging at all levels.

The Children's Rights Officer works in partnership with children and young people to improve their situation and raise their status. The Children's Rights Officer also works on the premise that children and young people should have a say when decisions are being made to affect their lives and supports young people to do this in many forms.

Children and young people have a responsibility to others to ensure their behaviour does not infringe on the rights of others. Children and young people often have many other responsibilities in their lives. Many have jobs, some care for relatives, most are school or college students and they must all respect the rights of others and act within the law. However, these are not connected to their human rights, which everybody has from birth.

In promoting the human rights of children and young people, the Children's Rights Officer encourages mutual respect and positive behaviour. A commitment to children's human rights demonstrates that adults respect children and young people, taking them seriously as individuals. This can only enhance and improve relationships between them. Viewing children and young people in this way could ensure a safer childhood with children having their needs met. A criticism of the authorities in both the Cleveland and Orkney enquiries was that children were viewed as "objects of concern" rather than individuals with rights.

The Children's Rights Service works vigorously to promote children's human rights to ensure that children and young people are safe, have access to services they are entitled to, are included in decisions that are made about them, listened to and have access to complaints processes if they so choose.

## **Legislation and Policy Framework**

The Children's Rights Service is firmly anchored to the overarching principles enshrined in the Children (Scotland) Act 1995 (CSA 95); there are:

- The welfare of the child is the paramount consideration;
- The child is to be given an opportunity to express their views to which due weight will be given; and
- No order shall be made on a child unless it is better than imposing no order at all.

These principles are informed by the United Nations Convention on the Rights of the Child (UNCRC) and are the "route map" through the many other complex issues that are presented to the Children's Rights Service. In line with this local policies and procedures relating to children's services are checked for congruence with the UNCRC.

The UNCRC is becoming increasingly visible as an analytical lens in documents and reports relating to children. The recent Child Protection Report "It's Everybody's Responsibility To Make Sure I am Alright" is a far reaching attempt to bring agencies closer together to protect children. Children's Rights are seen in this report as a necessary condition in the effective protection of children. Recommendations addressing the provision of services through Children's Services Plans, illustrates the importance for children's rights thus: "These (plans) should be led by a children's rights rather than a public service perspective and should promote every child's rights to life, health, decency and development" therefore, children's rights are seen in this report as a necessary condition in assisting professionals to be effective in protecting children.

The Audit and Review of Child Protection in Scotland also recommended a Children's Charter be created. We now have in existence, such a Charter and with its accompanying "Framework for Standards" offers clear guidance on how plans and practice should develop, with Children's Human Rights informing and leading the process.

Using the Child Protection Audit and Reviews as an example of the status of children's human rights in the 21st century is not exhaustive. In every aspect of the experience of young people, the state is recognising that children's human rights should be at the centre of safe and high quality services that are inclusive and promote positive healthy, development and citizenship. A number of studies have reported this including "Learning With Care" which tackled the experience of children and young people who are "Looked After". This study highlighted an unacceptable level of educational underachievement by children "Looked After", "Learning With Care"., Care to Learn", continues to influence policy development to address this issue. A children's rights perspective is clearly visible in this document.

The introduction of the Human Rights Act 1998, in 2001 saw the European Convention on Human Rights introduced in statute. While the Human Rights Act protects all of our Human Rights, the UNCRC is used specifically to give clarity to matters relating to children and young people.

The 26<sup>th</sup> April 2004 saw the introduction of Scotland's own Commissioner for Children and Young People, Kathleen Marshall. The Commissioner who has been termed "a Children's Champion" by the media, has a very clear focus on the United Nations Convention on the Rights of the Child being at the heart of statute and policy and that the underlying principles of the UNCRC underpin the practice of professionals with responsibility for the welfare of children. Examples of these principles are visible in Protecting Children and Young People: Framework for Standards:-

- Each child has a right to be treated as an individual;
- Each child who can form a view on matters affecting him or her has the right to express those views if he or she wishes;
- Parents should normally be responsible for the upbringing of their children and should share that responsibility;
- Each child has the right to protection from all forms of abuse, neglect or exploitation;
- So far as is consistent with safeguarding and promoting the child's welfare, public authorities should promote the upbringing of children by their families; and
- Any intervention by a public authority in the life of a child must be properly justified and should be supported by services from all relevant agencies working in collaboration.

(Protecting Children and Young People: Framework for Standards Annex C 2004)

The Commissioner is new to her post but she is already widely quoted in the press, stating the experience of children of Asylum seekers and those in secure accommodation are groups about whom she has human rights concerns.

### **Strategic Role of the Children's Rights Officer**

The strategic role of the Children's Rights Officer in policy development in Dundee relies on the UNCRC and employs a two strand approach, firstly, the commitment to bring young people into the centre of the process by consulting widely with young people who are "Looked After and accommodated". Secondly, in partnership with young people, raise areas of concern that stem from departmental policies with the Strategy and Performance Service for these concerns to be considered to improve and develop policies and practice. The Children's Rights Officer's role in policy development is informed by direct contact with children and young people, individually or through partnership working with organisations like Who Cares? Scotland or the Inclusion Group.

The Children's Rights Officer will continue to explore and develop creative ways of ensuring the voice of the children and young people is heard in a meaningful way, at the centre of the planning process and where policy requires review. For example, The Children's Rights Officer is currently working closely with a colleague from the Strategy and Performance section to create a way of including young people in the recruitment of residential staff, that is meaningful and values the contribution young people make. The guidance from the Scottish Executive on producing Children's Services Plans insists on meaningful consultation with service users and demonstrates unequivocally that the United Nations Convention on the Rights of the Child should be the route-map through the process. The Children's Rights Service will ensure that young people with comments to make have the opportunity to make them.

On a national level, the Children's Rights Officer sits on the committee of the National Association of Youth Justice as the Scottish 'observer'. The Association is a UK wide organisation, which has a long tradition in Children's Rights. It has an international reputation and with its strong links to academia, has been an effective lobbying body and its members have been at the centre of innovative practices with young people in the justice system. The Children's Rights Officer contributes by helping colleagues understand the Scottish context through a Children's Rights lens.

The Children's Rights Officer also plays an active role in the Scottish Children's Rights Officers Group, who meet quarterly to discuss all issues relating to the human rights of children "looked after". The group will be making formal links with the Commissioner for Children and Young People who has welcomed such an approach.

As a member of the Board of Who Cares? Scotland, an independent advocacy provider for all young people in public care, the Children's Rights Officer is in a position to raise the national awareness of Dundee young people. Indeed one young person from Dundee is also on the National Board as a young person's representative. Who Cares? Scotland campaign vigorously and have produced a number of comprehensive consultation documents eliciting the views and experience of young people in public care. The latest report "Lets Face It" has produced a list of recommendations, which will be considered by the Strategy and Performance Team for improving practice and policy. An acknowledgement of the valuable contribution children and young people make to the development of services.

At a local level, the Children's Rights officer is a member of strategic groups enquiring into Youth Justice issues, issues relating to Foster Care, Looked after young people and Throughcare and Aftercare. He also is a member of the Rossie User Group, which allows opportunities to influence policy and practice of Rossie Secure Services.

There has also been a significant training contribution from the Children's Rights Officer to give an introduction to Children's Human Rights and show how it can have a positive contribution to the quality of care for young people "looked after and accommodated". It also gives the Children's Rights Officer the opportunity to dispel some of the unhelpful myths that abound around the notion of Children's Human Rights. Groups that have benefited from this training include, newly inducted residential workers as part of an underpinning knowledge course, prospective Social Workers at Dundee University, newly recruited Foster Carers, some voluntary agencies delivering services to children and young people. The Children's Rights Officer has also prepared and delivered workshops at national conferences on the subjects of Complaints in Foster Care and Child Protection, the Internet and Children's Rights.

## Service Provision

The Children's Rights Service aims to be responsive, flexible, proactive and offering choice. In direct work with young people there were 357 referrals from young people looked after and accommodated.

Chart 1:

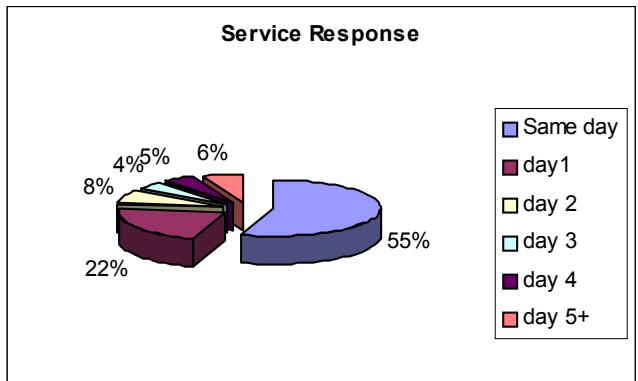


Chart 1 shows the response times. Over half (55%) generated a response the same day. A further 22% accounted for a response in the second day. The remaining response times reflects the wishes of children, young people and those with responsibility for their care. It is essential that the service remains as flexible as possible and can respond quickly in order to ensure effective safeguards and credibility with those who use the service

Chart 2:

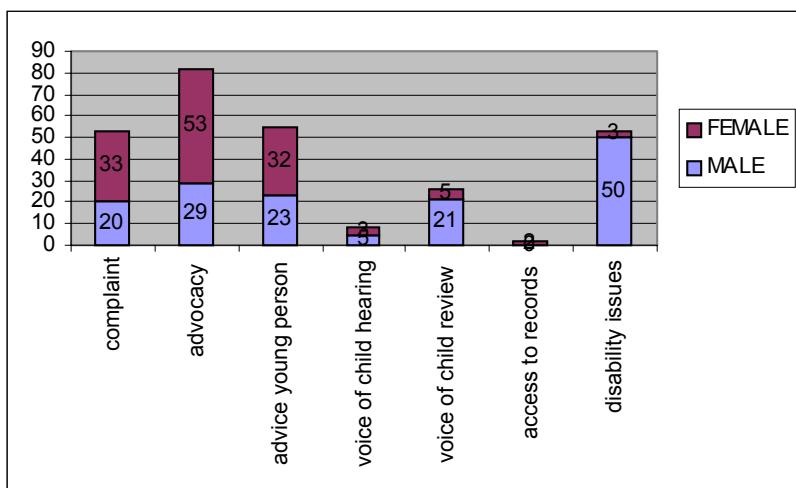


Chart 2 is a breakdown by gender of the direct services delivered to children and young people by the Children's Rights Officer. It is worthy of note that in most service areas females were more likely to refer to the Children's Rights Service than their male counterparts. The one remarkable exception to this is the section relating to Disability issues. The promotion of Children's Rights to this group of young people is discussed in a later section. It is difficult to state with certainty but one suspects that females are generally more likely to ask for advice and advocacy support and this is reflected in this table. However, males appear to require more support in formal settings such as Hearings or in LAC reviews.

**Chart 3:**

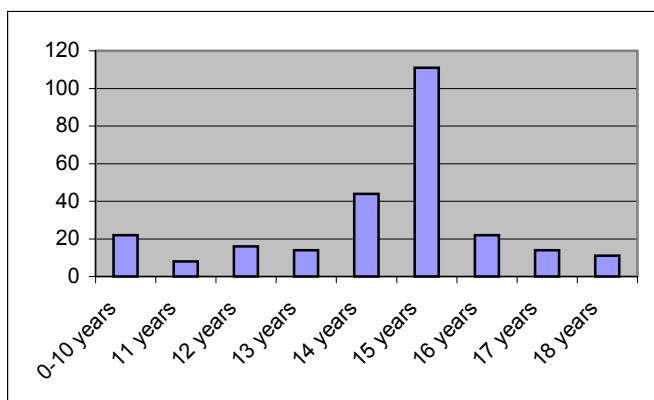


Chart 3 dispels a common misconception that the Children's Rights Officer works exclusively with teenagers. As can be seen, a significant number of referrals came from the younger age group. Listening skills are a challenge on these occasions and require a high level of creativity, often hearing behaviour of children, adults and organisations as well as voices. For example, a very young child with significant health needs was referred to the service. This child's voice was clear in the emotional responses and attachments to the adults around the child, within the context of her health needs. The Children's Rights Officer was able to make representation on the child's behalf, from a 'Rights' perspective, to ensure the safest, most appropriate resource was made available.

At the other end of the scale, two people over the age of eighteen years called upon the service to assist them to gain access to their files, in order to make sense of their previous time 'in care'. Having clarified that however, the chart shows that the optimum age for seeking the service is fifteen years.

### **Complaints Service**

The Children's Rights Officer views an effective complaints procedure as having a multi-functional value. It should serve primarily as an important safeguard for young people, giving them a formal structure to lodge their safety concerns. It should also serve a consultative or listening device to inform and improve practice and service delivery. Article 12 of the UNCRC relates to the right of children and young people to express their views and that they have "...a right to express those views freely in all matters affecting the child". The right to make a complaint is a crucial participatory right that runs consistent with the principles of inclusion, which the Scottish Executive is firmly in favour. Effective complaints procedures are an important mechanism for children and young people to express their views and are an illustration of an organisation that is transparent, inclusive healthy and safe

An important duty of the Children's Rights Officer is to ensure that the complaints and concerns of young people receive due consideration by those responsible. The responsibility of the Children's Rights Officer is to enable young people to articulate their complaints and concerns and support them throughout the process to resolution. As can be seen, 20 males and 33 females were supported in this way. Some complaints were resolved through mediation and clarification. Some complaints however, enter formal procedures and this can be a particularly stressful experience for young people. Young people submitted complaints against a number of agencies including health services, police, social work services, residential services, education and secure units. Some of these complaints were about fundamental issues that related to their safety, their dignity and their right to privacy.

Bullying was seen as an issue by some young people in group living situations and school. Some young people raised concerns about their treatment by some professionals. Another theme that emerged was the number of visits young people received from their social workers. This is an issue for some young people who are accommodated in residential units, foster placements and residential schools. The complaints service offers an enabling and conciliatory perspective. The approach is to resolve issues at source, where this is appropriate, and to support young people who enter formal processes.

The Children's Rights Officer has taken part in a PHD study by a student at Glasgow University. The thesis of this study is Children's Participatory Rights in complaints processes. The published study should offer some guidance on how to maximise the use of informal processes in resolving issues raised by children.

### **Advice and Information (Excess of 350 referrals)**

The advice and information aspect of the service accounts for a significant part of the overall service. This serves both young people and adults who are responsible for their welfare. Underpinning principles of this service is empowerment and self-determination. Supplying young people with accurate information often avoids unnecessary conflict and can resolve issues without recourse to formal systems.

Adult professionals and those with responsibility for the welfare of children and young people frequently make use of the service. Requests come from social workers, panel members, youth workers, teachers, elected members and others with an interest in children's rights. The Advice and Information Service is resourced by a substantial library of leaflets, reports, books, videos etc.

The Children's Rights Officer is also a member of the Child Law Centre and can therefore, call on expert legal advice into Children's Human Rights. The Children's Rights Officer is currently working on updating all the service information and is devising an information pack for young people who are "Looked After". This information pack will outline rights and responsibilities as well as information and advice on issues relating to life experiences of children and young people. A new recording database will ensure a clear statistical breakdown of this service in future.

### **Secure Accommodation**

The Children's Rights Officer has developed a high profile service for children and young people in secure accommodation. A high standard has been set for the service, which requires the Children's Rights Officer making contact with each young person within two working days of being notified by the responsible social worker. Throughout the past year there has been 100% congruence with this standard. A young person placed in secure accommodation is often in crisis and less able to absorb all the information that is given to them about their rights. The Children's Rights Officer develops a strong relationship with all young people placed in secure accommodation, providing that it is their wish. In doing so the Children's Rights Officer is able to advise and support young people to express their views and concerns. The Children's Rights Officer can take the time necessary to ensure that young people in this situation fully understand their rights in this situation. The Children's Rights Officer also ensures that staff and managers of the units are fully aware of the powers and duties of the Children's Rights Officer and of the range of assistance offered. Most young people are active users of the Children's Rights Service and will request visits from the Children's Rights Officer by telephone or through staff.

Children and young people who are in secure accommodation are among the most vulnerable in our society and the crude media stereotype of them as hardened criminals does not accurately portray the reasons why they are placed in secure accommodation. Most are there because of overriding welfare concerns often brought about by the treatment they received at the hands of adults.

## Strategic Input

The Children's Rights Officer is part of the national group of professionals examining children's human rights issues that exist when a young person's liberty is removed. These have included strip searches, restraint and the use of single separation. These are controversial and extremely complex issues that the Secure Standards group are attempting to analyse and offer guidance on. The Social Services inspectorate have offered support and commended the group for tackling these difficult practice issues and await their guidance and recommendations.

The Children's Rights Officer is particularly concerned with the routine strip-searching of young people who are accommodated in secure accommodation. This practice, while widespread, has been a concern of the Children's Rights Officer and is being addressed nationally through the Secure Standards Group. This is a national practice that would appear to have no legal authority and no statutory regulation. However, some establishments are becoming aware of the human rights challenge to this and are modifying their practice, based on demonstrable risk.

## Secure Accommodation Referrals



This chart represents 19 young people in total, placed in The Elms Secure Unit, Rossie Secure Unit in Montrose and Kerelaw in Ayrshire. Two of the young people were readmitted into secure units. The most striking statistic is the high proportion of young women represented (10). The Children's Rights and Independent Advocacy Service offers a gender balance should young people request same gender workers. The Children's Rights Officer works closely with his female colleague from Who Cares? Scotland to ensure this issue is handled sensitively and professionally.

## ADVOCACY

As has been established in this report, children and young people have a basic human right to have their views heard and taken into account in matters affecting their lives. Article 12 of the UNCRC was incorporated in part, within Sec16 (2) of the Children (Scotland) Act 1995. This in effect places a duty on adults to listen to and give due weight to the views and wishes of children and young people. This is true of all children and young people

irrespective of their circumstances. The weight given to a young person's voice is guided by "evolving capacity".

The Children's Rights Officer provides advice and support to assist them in expressing these views in their dealings with adults in formal and informal settings. The Section in chart 2, VOC ( voice of the Child) Hearing, relates to the number of times the Children's Rights Officer has supported children and young people in Children's Hearings. Interestingly, where one might assume that this would relate to teenagers, two of the three females were under eight years old as was two of the five male children. The younger age group represented here were complex cases relating to resource issues or issues of contact between families. This often leads to situations where children's rights and the rights of adults compete. The route through this complex situation for the Children's Rights officer is the UNCRC, the Welfare Principle, which deems the child's welfare as being paramount, and the other overarching principles of the Children (Scotland) act 1995. Two older young people felt unable to express any views because they felt it intimidated by some of the adults present. The Hearing was able to accommodate this by asking the adults to leave for a short period while the young people, with support of the Children's Rights Officer, were able to express their wishes.

Chart 2 also denotes the VOC (voice of the child) LAC (Looked After Children) Review. The statutory review of Childcare Plans is another important safeguard and forum for advocacy to support children and young people to express their views about the services they receive and the care they experience. The Children's Rights Officer supported 26 young people to express their views at LAC Reviews, 21 males and five females. The Children's Rights Officer being male may explain this gender anomaly. While the Children's Rights Officer will represent the views of those young people who chose not to attend, this not the ideal remedy. LAC reviews need to be more attractive to young people and that is the responsibility of those involved in their care. Some young people view the process as administrative, serving only the function of "getting the paperwork done" One young person described his LAC review as being put under a microscope and disagreed with some things that were said. However, he felt unable or was unwilling to express his views as he did not feel he could change things. While this not typical, there are a considerable number of young people who view LAC Reviews as having little value to their future.

The Children's Rights Officer would like to see LAC Reviews afforded appropriate status, ensuring contributions from all appropriate agencies involved and not just Social workers. Also, that Review Officers are properly resourced to ensure administrative duties are fulfilled, supporting the process effectively. This would ensure the process is efficient and able to develop in a manner to be perceived by all professionals as their responsibility to ensure that they are all right, as the report says.

As is the case in all situations where a child or young person has limited capacity to express their wishes, the Children's Rights Officer adopts the welfare principle and the guidance of the UNCRC.

Strategically, the Children's Rights Officer has worked with Review Officers to improve situations for children and young people by highlighting concerns about resource and practice issues. These concerns are raised with the head of section for Strategy and Performance to decide on a strategy for improvement.

Advocacy is an essential mechanism for supporting children and young people, of all abilities, to express their views freely. Who Cares? Scotland offers an important structural independence to provide this and the combined service offers choice. This again demonstrates that the service is about people rather than systems.

## **Disability Issues**

Chart 2 illustrates the number of referrals received by children with disabilities and their families. This is an area of the service that has grown over the last two years with word of mouth between families having a significant bearing on the source of the referrals. The number of referrals relates to a total of 14 males and 3 females accounting for 53 separate referrals. Due to the often-complex needs, advocacy work with children and young people with disabilities demands much of the Children's Rights Officers time. Referrals from this group tend to be on-going work with long term support required.

The UNCRC and relevant legislation guides the Children's Rights Officer's approach in Rights work with children and young people with disabilities. Though needs may differ and special rights are accorded, children's human rights remain the same whether a disability exists or not. The right to dignity and respect is particularly relevant when childhood is compounded by disability.

As a long-term advocate for Children and young people with complex needs, some with no verbal communication, the Children's Rights Officer works from a best interest perspective that is complemented by the UNCRC. Referrals have been wide and varied covering advocacy, complaints advice and information. The Children's Rights Officer has worked successfully with children and young people in this group to improve the quality of their lives in residential settings, school and at home, ensuring access to services and the claiming of their right to respect and dignity.

A close working relationship exists between the Children's Rights Officer and the voluntary sector that provide some of the services to this group of children and young people. Given the communication problems that often exist and the high level of dependency on other people, children and young people with disabilities are particularly vulnerable to discrimination. The Children's Rights Officer is committed to challenging discrimination where it exists and promoting the Rights of all children and young people who are entitled to receive the service.

### **Recommendations (Complaints)**

1. Maintain conciliatory perspective and develop creative ways with young people to raise their concerns appropriately.
2. Keep abreast of research studies informing issues around complaints processes.
3. Work in partnership with Customer Care service to ensure formal complaints are dealt with expeditiously.
4. Work at ensuring young people have redress when their complaint is upheld

### **Recommendations (Advice and Information)**

1. Update on service information and information pack be completed by April 2005.
2. The Children's Rights database - continue to be developed to ensure accurate statistical breakdown.
3. Continue to develop accurate sources of information and provide advice and information for those concerned with the welfare of children and young people.

### **Recommendations (Advocacy)**

1. Continue to work in conjunction with Who Cares? Scotland to offer a service that offers choice and structural and professional independence.
2. Update service information to ensure better access to the Children's Rights Service

### **Recommendations (Children With Disabilities)**

1. The Children's Rights Officer to improve the service to young people by raising the profile through the publication of specific service information, targeted at the needs of this group
2. the Children's Rights Officer will continue to challenge individual and institutional behaviour that is discriminatory .

### **Recommendations (Secure Accommodation)**

1. Recognising the particular vulnerability of this group, continue to develop a high service profile in Secure Accommodation.
2. Continue to challenge human rights issues where they exist
3. Continue to challenge crass stereotypes of this group of young people

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