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Murdo Fraser MSP
Convener
Covid-19 Committee

27 July 2020

Dear Convener,

COVID-19 COMMITTEE SESSION 24 JUNE: FURTHER INFORMATION ON PROVISIONS IN THE CORONAVIRUS ACTS AND ON FIXED PENALTY NOTICES

I was pleased to be able to attend the recent session with the Committee. During the session, I undertook to follow up in writing to provide the Committee with further information in response to a number of questions relating to the implementation of certain provisions contained within the Coronavirus Acts and to Fixed Penalty Notices.

Fixed Penalty Notices

I was asked to share information on the number of Fixed Penalty Notices (FPNs) issued under the Health Protection (Coronavirus) (Restrictions) Regulations to people who have flouted the lockdown measures. Police Scotland is currently publishing data on the number of FPNs issued on its website <https://www.scotland.police.uk/about-us/covid-19-policescotlandresponse/enforcement-and-response-data>.

On the subject of appeals, I understand the process would be the same for other FPNs in that people have 28 days to appeal in the method specified on the FPN by making a request for a court hearing. Police Scotland would then submit a Standard Prosecution Report to the Procurator Fiscal for its consideration.

Local Authority duty to assess social care needs

Secondly, I committed to provide members with further detail on Local Authorities' assessment of social care needs covered under Sections 16 & 17 of the Coronavirus Act 2020 – more specifically, if the Scottish Government had received further information on how often Local Authorities had used these powers. Our first survey to Local Authorities included questions about the number of full and partial assessments undertaken by authorities using the powers, however these were not consistently completed during the first survey. Officials

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have informed me that a modified version of the question has been retained in the second survey in order to seek a stronger data set.

In response to the first survey, in terms of the impact of sickness, local authorities gave a range of staff-related reasons for why most of them had not used the powers. These included:

- staff attendance being better than expected;
- initial concerns about staff reductions not materialising;
- staff capacity being depleted due to shielding, but not sufficient to impact the local authority's ability to make assessments;
- the anticipated worst case scenario in regard to staff shortages and unprecedented demand not materialising locally.

We are hopeful of receiving further updates as part of the second survey issued to Local Authorities.

Children's Hearings

Finally, there was a request for detail around children's hearings, and more specifically the Scottish Government's progress in re-instating face-to-face hearings. The Committee will be aware that the resumption of 'face-to-face' children's hearings - where safe to do so - was included in Phase 1 of the routemap announced on 21 May.

The Scottish Government introduced extraordinary flexibility measures to support the continued operation of the hearings system in the Coronavirus (Scotland) Act 2020 and detail on the use of those powers was set out in our first report published on 9 June (<https://www.gov.scot/isbn/9781839608179>). It demonstrates that virtual hearings have continued throughout the pandemic whilst on a lesser basis based on vulnerability and need. While those measures remain necessary, they bring unavoidable impacts on children's and families' experiences.

We have therefore actively supported agencies to prioritise the earliest possible safe service recovery. Even working at pace, we knew this process would take some time.

The Scottish Government made it clear on 22 May in a statement on the Children's Hearings Improvement Partnership website that 'no child, family member, volunteer, staff or professional will be called for Hearings until we are satisfied that it is safe. A risk-led, phased approach to the reintroduction of some physical Hearings has been prepared, and agencies are discussing it with staff, volunteer managers and trade unions'.

That statement went on to explain that 'face to face hearings' would only be implemented once clinical risk assessments of the issues inevitably engaged by physical Children's Hearings has been completed – to all partners' satisfaction. We expect remote hearings to continue to be the default for some weeks to come and a blend between virtual and physical hearings will persist for the foreseeable future.

The responsible agencies confirmed to the Government that the lead-in time – to prepare premises, train and equip staff, make system adaptations and ensure physical distancing – was considerable and that no physical hearings would be possible for a number of weeks after the point that it is agreed it is safe to hold them. That long lead-in, and the intrinsic

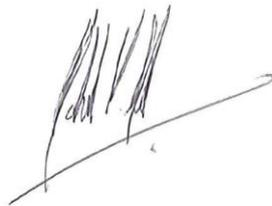
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complexity of holding Hearings, were key factors behind Children's Hearings' inclusion in phase 1.

Officials remain in daily contact with the Chief Executives of the Scottish Children's Reporter Administration (SCRA) and Children's Hearings Scotland on these issues. Officials take part in weekly teleconferences with key system partners to discuss COVID response, recovery and renewal. SCRA sent recovery proposals to Health Protection Scotland in mid-June and detailed feedback was provided within three working days. With the benefit of that advice, some SCRA staff returned to centres in Glasgow and Stirling in the week commencing 22 June and to centres in Dundee and Edinburgh in the week commencing 29 June. In parallel with their work on virtual hearings, staff are continuing work to resume children's hearings with physical attendance from core participants. There are statutory notice periods required to convene hearings which impacts on lead in time but some hearings have started week beginning 13 July. A wider recovery and renewal plan has been developed by SCRA and we will continue to engage with them on this work going forward.

I hope this letter is helpful in addressing the range of issues discussed during the session on which I committed to provide further information.



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