

Children's Hearing System

For more than 30 years, Scotland's system of justice for young people (aged 0-16 years old) has been different from that operating in the rest of the United Kingdom. There are three 'overarching principles' in the law relating to the Childcare Legislation, which are contained in the Children's (Scotland) Act 1995. These are:

- The welfare of the child is paramount
- The child's view must be taken into account
- No order should be made unless it is better to make the order or do nothing.

Children come to hearings because they are in need, have offended or have been offended against. The Hearings System recognises that the needs of both groups are often the same. Hearings work with children and young people whom:

- Have offended
- Have truanted
- Have misused drugs/alcohol
- Have been physically, emotionally or sexually abused
- Are in moral danger
- Need care and protection
- Are out of control

In making the decision, the Hearing considers the views of children, families, social workers, teachers and other specialists. The needs of the child are often complex and meeting them may require partnership between several agencies, including some in the voluntary sector.

Each Local Authority is responsible for providing a panel of members who sit on Children's Hearings. It is the Local Authority's responsibility to support and train Panel Members to enable them to sit on Hearings and ensure that sufficient resources are available to enable the decisions of the Hearings to be implemented.

Information was provided on referrals to the Children's Reporter and Children's Hearing for the financial years 2001/02 2002/03 and 2003/04 (1st April to 31st March).

Grounds for Referral to a Children's Hearing

There are twelve grounds for referring a child to the Reporter, and these grounds are listed below:

- a) The child is beyond the control of any relevant person – s. 52(2)(a)
- b) The child is falling into bad associations or is exposed to moral danger – s. 52(2)(b)
- c) The child is likely –
 - (i) To suffer unnecessarily
 - (ii) Be impaired seriously in his health or development, due to a lack of parental care – s.52 (2)(c)
- d) The child is a child in respect of whom any of the offences mentioned in Schedule 1* of the Criminal Procedure (Scotland) Act 1995 (offences against children to whom special provisions apply) has been committed – s.52 (2)(d)
* Offences include sexual offences, assault, ill treatment, neglect, exposure, abandonment or willful exposure to serious risk.
- e) The Child is, or is likely to become, a member of the same household as a child in respect of whom any of the offences referred to in paragraph (d) above has been committed – s.52 (2)(e)
- f) The child is, or is likely to become, a member of the same household as a person who has committed any of the offences referred to in paragraph (d) above – s.52 (2)(f)
- g) The child is, or is likely to become, a member of the same household as a person in respect of whom an offence under sections 1-3 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest and intercourse with a child by step-parent or person in position of trust) has been committed by a member of that household – s.52 (2)(g)
- h) The child has failed to attend school regularly without reasonable excuse – s.52 (2)(h)
- i) The Child has committed an offence – s.52 (2)(i)
- j) The child has misused alcohol or any drug, whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971 – s.52 (2)(j)
- k) The child has misused a volatile substance by deliberately inhaling its vapour, other than for medicinal purposes – s.52 (2)(k)
- l) The child is being provided with accommodation by a local authority under section 25, or is the subject of a parental responsibilities order obtained under section 86 of this Act and, in either case, his behaviour is such that special measures are necessary for his adequate supervision in his interest or the interest of others – s.52 (2)(l)

As noted above, under section (i), a child may be referred to the Reporter if he/she has committed an offence. The main types of offences, which children may commit, are:

- Theft

Taking property without permission and also Aggravated theft such as housebreaking or opening a lock fast place (OLP). *Attempted theft is also included in this category.*

- Reset

This is where a person receives property that is known to be stolen.

- Damage to Property

This category includes crimes of Malicious mischief, vandalism and fire-raising.

- Offences Against the Person

This may include Assault and various sexual offences.

- Offences that may hinder the Prevention of Crime, such as possession of an offensive weapon or weapons.

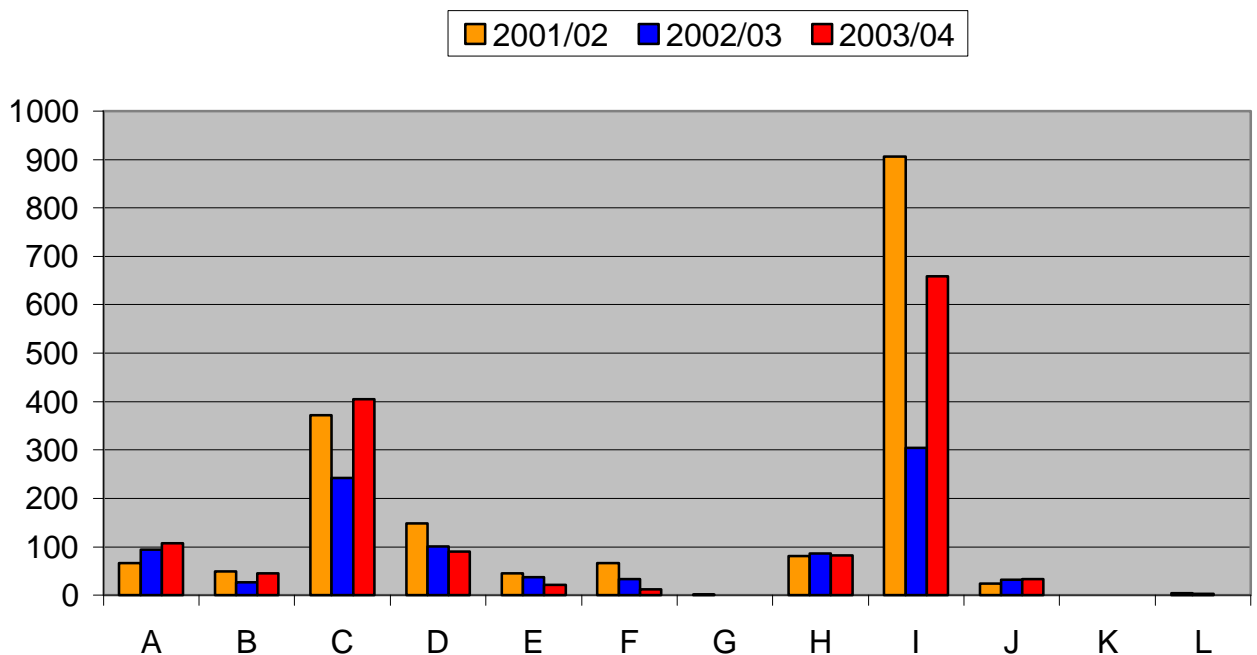
- Traffic Offences

This category includes the taking and driving away of motor vehicles and driving under the permitted age.

- Miscellaneous

Offences such as Breach of the Peace, Fraud and false pretences may be included in this category.

Breakdown of Grounds for Referral to Children’s Reporter in Aberdeenshire during the three-year period



Source: Scottish Children’s Reporter Administration

As can be seen from the above chart, in all three years analysed in the Audit, the category with the highest number of referrals was category (i), ‘The Child has committed an Offence’. There were also a significant number of referrals to the Reporter under category (c), where ‘The child is likely to suffer unnecessarily or be impaired seriously in his health or development due to a lack of parental care’.

WHAT DOES THIS TELL US?

- High percentage of children are referred to the Children's Reporter due to committing an offence under section 52(2)(i).
- There is also a significant amount of children being referred to the Children's Reporter due to (i) suffering unnecessarily or (ii) being impaired seriously in their health or development, due to a lack of parental care.