



'The Feedback Loop'

A Report by the National Convener on the implementation of
Compulsory Supervision Orders (under section 181 of the
Children's Hearings (Scotland) Act 2011) for years 2020-21,
2021-22, 2022-23

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Foreword

It would be difficult to find a more significant time in the recent history of the Children's Hearings System than the period captured in this report. It begins in April 2020 – with the world quickly adapting to the changes ushered in by COVID-19 pandemic. At Children's Hearings Scotland (CHS), we quickly adapted to a new functional and legal framework of hearings. In order to do so, we adopted new ways of working that became part of our everyday practice. Having weathered those challenges with the outstanding flexibility and commitment of volunteers and staff, we are now better prepared to adapt to, and lead, change.

The period covered by this report ends in March 2023. At this time, CHS were eagerly awaiting the publication of the 'Hearings for Children' Report produced by the Hearings System Working Group, a partnership between CHS, The Promise Scotland and the Scottish Children's Reporter Administration (SCRA). The Report was produced after a 20-month review of the Children's Hearings System and makes a number of recommendations to the Scottish Government about the ways in which the system could be changed to keep The Promise to Scotland's children.

At the same time, a new Tribunal Support Model for CHS was being developed to support Panel Members, bring more consistency and quality to all hearings and deliver the best outcomes for children. On top of this, the Children (Care and Justice) (Scotland) Bill was introduced to the Scottish Parliament in December 2022. If passed, these reforms would afford all 16 and 17-year-old children the opportunity to be referred to the Principal Reporter, regardless of their prior experience of the hearings system.

With these key reforms on the horizon, it is important to recognise the essential functions and duties I hold as National Convener which remain unchanged. This report is one of those duties, and fulfils a statutory obligation to report to our Panel Members and to the Scottish Ministers on the implementation of Compulsory Supervision Orders (CSOs) in local authorities across Scotland. The intent of this report is to show why decisions are being made for children, what appears to be effective and how those decisions are helping to improve children's wellbeing.

However, as stated in previous reports, the limited available data means that the report is only a partial realisation of the policy objectives underlying the requirement for this report in the Children Hearings (Scotland) Act 2011. That vision is to ensure the best outcomes for those children through the systematic reporting back to Panel Members (and other partners) on children's wellbeing and to use this to improve decision-making. This remains a challenge that this report does not, on its own, overcome.

It is a difficult task to report on the implementation and impact of orders at a national level when the data regarding decisions and how well children are being supported is not held by CHS. One of the many recommendations made by the Hearings System Working Group is that there must be an improved way to efficiently collect, share and learn from data across the Children's Hearings System. If accepted and implemented, this would deepen our understanding of successful decision-making, improve the learning and development of Panel

Members and provide a fuller picture of what measures are effective in improving outcomes for children. I am committed to working towards such a system which improves the availability and sharing of data, helping us to understand how implementation authorities are enforcing the orders which our Panel Members put in place.

This report presents the current legislative context, gives an overview of the history of the development of the Feedback Loop report, and presents data about decisions made at children's hearings and notifications of breaches by implementation authorities. Finally it takes a forward look at the possible future developments.

I would like to thank SCRA for providing the necessary data and for their assistance in the preparation of this report.

As the legislation requires, this report will be provided to all Panel Members following the laying of the report before Parliament.

- Elliot Jackson, National Convener and CEO, Children's Hearings Scotland

Legislative Context

Section 181 of the Children’s Hearings (Scotland) Act 2011 (‘the 2011 Act’) places a duty on the National Convener to prepare a report “about implementation of compulsory supervision orders” in Scotland as a whole and in each local authority area annually, as soon as practicable after the end of the financial year.

A copy of the report must be given to each member of the Children’s Panel and Scottish Ministers must lay the report before the Scottish Parliament.

Past Developments of the Feedback Loop Report

The first two Feedback Loop reports published, covering the years 2014-15 and 2015-16, presented a range of data about children’s hearings and the implementation of CSOs.

The third Feedback Loop report, covering four years (2016-17, 2017-18, 2018-19 and 2019-20) presented a smaller amount of more specific data than the previous reports, focusing exclusively on decisions made in hearings and reported breaches of implementation of CSOs. This is replicated in this report, covering the last three years (2020-21, 2021-22 and 2022-23).

As noted in previous reports, neither the National Convener nor CHS collect or store information about children, either on an individual or aggregate basis on the implementation of CSOs. This information is held and controlled by Local Authorities, who are responsible for implementing CSOs. Data on decisions made in hearings is held by SCRA. This distance from the data makes collection for the purposes of publication challenging for CHS. In addition, information on the wellbeing of children is not collected in the same way across Scotland.

Over the last few years, work has been progressed to try and achieve a consistent approach that allows for ease of collection, reporting and use, but this has had limited success.

The first two Feedback Loop reports used reported data on a yearly basis from September to August, in line with the data available from Local Authorities. This report, like the last Feedback Loop report, uses financial years as specified in the 2011 Act.

Implementation of CSOs

If Children’s Panel Members are satisfied that compulsory measures of supervision are necessary for a child’s protection, guidance, treatment or control, a children’s hearing may make a CSO.

The CSO, by including measures setting out what specific arrangements should be made, and by specifying an ‘implementation authority’ (the Local Authority in whose area the child predominantly resides or with whose area the child has the closest connection), places a duty on a Local Authority to take action.

Under section 144 of the 2011 Act, the implementation authority has a general duty to give effect to a CSO and also a duty to comply with any specific requirements imposed on it by the measures attached to a CSO (for example, a child is required to reside in a particular place or to undergo a specific assessment, or attend a particular school). The section states:

- (1) The implementation authority must give effect to a compulsory supervision order.
- (2) The implementation authority must in particular comply with any requirements imposed on it in relation to the child by the compulsory supervision order.

'Implementation' therefore concerns whether implementation authorities have carried out the actions required of them by measures in CSOs.

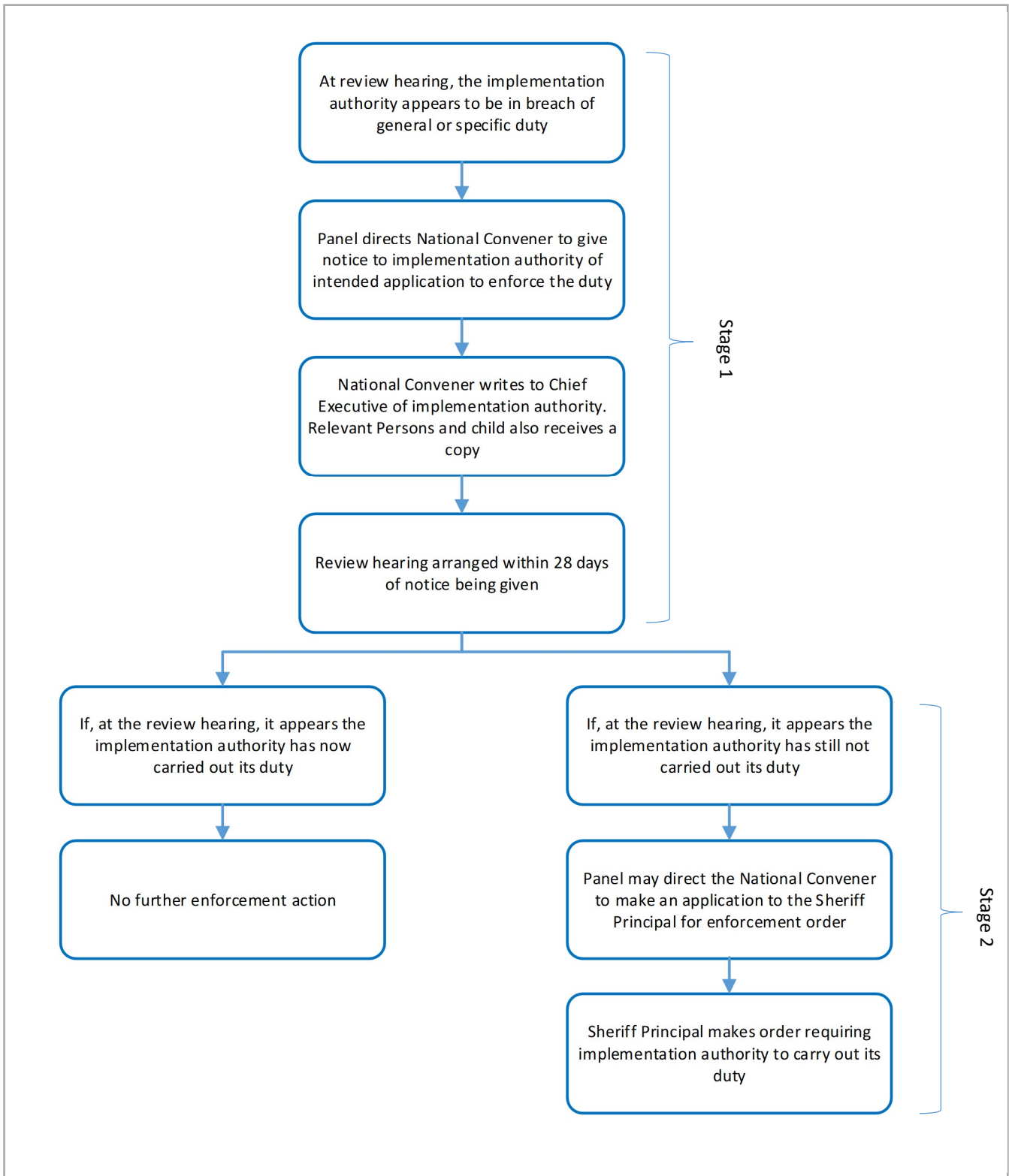
The Feedback Loop is intended to capture not only whether a CSO had been given effect by a Local Authority, but also what had been the impact of that on the lives of the children subject to them.

Implementation Breaches

It may become clear, for example at a review hearing, that something other than the measure of supervision directed at a hearing has happened. The implementation authority may have taken other action or taken no action at all. In these circumstances, a breach of the implementation duty may be considered to have taken place as the implementation authority has failed to carry out its duty, as described above. Section 146 of the 2011 Act allows a hearing to direct the National Convener to take action to enforce the authority's duty.

Any implementation breach is potentially serious. It may indicate that a child is not receiving the support that a children's hearing has decided is necessary in their best interests. It is important to remedy that breach in order to improve outcomes for children.

A summary of the section 146 process for reporting and enforcement is given overleaf.



Implementation Data

This report focuses on the implementation of decisions made in hearings by bringing together and providing information on three areas:

- (1) A count of hearings in which particular decision types were made in a given year (1st April to 31st March) that place an implementation duty – through a CSO - on an implementation authority. The relevant hearings decisions are:

Decision Type	Description / Definition
CSO Continued	The hearing was satisfied that an existing CSO was still required and that no variation to any of the measures was needed.
CSO Continued & Varied	The hearing was satisfied that a CSO is still required but a change to the measures was needed.
CSO Interim Continuation	The hearing was satisfied that an existing CSO should remain in place short-term, until another decision can be made.
CSO Made	The hearing was satisfied that a CSO was necessary for the child's protection, treatment, guidance or control.
CSO Varied	The hearing was satisfied that an existing CSO was still required but the 'relevant period' remained unaltered.

- (2) The number and types of breaches of implementation duty (s.146) that were reported to the National Convener.
- (3) The enforcement actions taken by the National Convener, and their result.

This data is presented over the following pages, separated by Local Authority, with a Scotland-wide total also given.

Notes on the data are given at the end of this report.

Report for 2020-21

(1) Implementable Decisions made at hearings:

	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied
Aberdeen City	91	149	14	77	6
Aberdeenshire	80	96	>5	55	>5
Angus	34	69	>5	24	>5
Argyll & Bute	29	60	>5	19	0
Clackmannanshire	42	62	22	38	7
Dumfries & Galloway	103	158	13	73	0
Dundee	42	87	17	55	>5
East Ayrshire	56	110	12	60	0
East Dunbartonshire	38	50	>5	30	0
East Lothian	62	76	9	27	>5
East Renfrewshire	31	35	>5	15	0
Edinburgh, City of	180	262	36	51	6
Eilean Siar	7	20	>5	20	5
Falkirk	120	114	19	56	24
Fife	101	272	22	113	16
Glasgow	344	433	111	125	18
Highland	104	196	20	44	0
Inverclyde	42	63	5	46	0
Midlothian	9	43	>5	13	>5
Moray	26	62	0	12	0
North Ayrshire	107	129	16	63	0
North Lanarkshire	130	143	30	39	0
Orkney	5	15	>5	>5	0
Perth & Kinross	35	52	>5	38	>5
Renfrewshire	127	192	8	43	0
Scottish Borders	32	56	>5	20	>5
Shetland	>5	14	0	>5	>5
South Ayrshire	49	81	>5	27	>5
South Lanarkshire	145	180	59	55	5
Stirling	53	49	>5	33	6
West Dunbartonshire	72	127	8	46	>5
West Lothian	95	113	10	23	5

(2) Implementation Breaches and (3) Action Taken

No implementation breaches were reported between 1st April 2020 to 31st March 2021.

Report for 2021/22

(1) Implementable Decisions made at hearings:

	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied
Aberdeen City	98	189	39	68	10
Aberdeenshire	63	143	23	64	>5
Angus	39	91	16	30	>5
Argyll & Bute	38	63	7	21	>5
Clackmannanshire	52	125	63	65	19
Dumfries & Galloway	92	208	29	87	0
Dundee	72	128	28	114	7
East Ayrshire	78	114	94	43	>5
East Dunbartonshire	31	52	19	31	0
East Lothian	69	91	79	29	>5
East Renfrewshire	34	48	6	20	0
Edinburgh, City of	242	336	117	155	5
Eilean Siar	17	19	8	7	0
Falkirk	121	141	75	79	24
Fife	122	386	72	140	35
Glasgow	481	636	289	199	34
Highland	82	211	84	88	>5
Inverclyde	69	108	51	41	0
Midlothian	18	38	5	24	>5
Moray	21	42	>5	23	>5
North Ayrshire	134	227	88	99	>5
North Lanarkshire	164	234	90	147	>5
Orkney	5	12	>5	6	0
Perth & Kinross	47	93	24	50	7
Renfrewshire	153	240	62	80	0
Scottish Borders	30	68	5	37	>5
Shetland	8	5	0	>5	0
South Ayrshire	52	108	31	30	0
South Lanarkshire	174	280	64	107	7
Stirling	65	68	39	27	9
West Dunbartonshire	104	192	50	54	0
West Lothian	84	99	57	44	8

(2) Implementation Breaches

For the decisions made during the year from 1st April 2021 to 31st March 2022, three reports of breaches of implementation were made to the National Convener, relating to three children from one family. These are detailed below. The Local Authority in question is not named in order to prevent children from being identified.

Breach 1: The Local Authority failed to provide appropriate therapeutic services for the child.

Breach 2: The Local Authority failed to provide appropriate therapeutic services for the child.

Breach 3: The Local Authority failed to provide appropriate therapeutic services for the child.

(3) Action Taken

Breach 1: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Breach 2: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Breach 3: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Report for 2022/23

(1) Implementable Decisions made at hearings:

	CSO Continued	CSO Continued & Varied	CSO Interim Continuation	CSO Made	CSO Varied
Aberdeen City	97	164	53	41	9
Aberdeenshire	50	115	29	57	7
Angus	38	103	17	61	>5
Argyll & Bute	32	64	11	28	>5
Clackmannanshire	72	102	80	20	23
Dumfries & Galloway	100	218	30	82	>5
Dundee	78	176	39	85	22
East Ayrshire	126	127	84	83	0
East Dunbartonshire	40	47	22	17	>5
East Lothian	42	79	10	27	>5
East Renfrewshire	42	23	9	19	0
Edinburgh, City of	249	345	74	135	10
Eilean Siar	12	24	5	11	0
Falkirk	140	122	67	81	24
Fife	159	310	63	151	20
Glasgow	476	657	245	216	16
Highland	71	236	47	74	7
Inverclyde	81	101	59	43	0
Midlothian	23	49	10	35	>5
Moray	17	50	5	31	>5
North Ayrshire	134	227	118	67	0
North Lanarkshire	230	218	120	108	>5
Orkney	9	13	>5	13	>5
Perth & Kinross	59	87	11	26	15
Renfrewshire	195	247	99	124	0
Scottish Borders	50	66	17	22	>5
Shetland	>5	9	0	8	>5
South Ayrshire	62	73	17	31	5
South Lanarkshire	178	225	99	95	8
Stirling	55	57	23	19	14
West Dunbartonshire	90	181	33	45	5
West Lothian	62	92	104	42	9

(2) Implementation Breaches

For the decisions made during the year from 1st April 2022 to 31st March 2023, two reports of breaches of implementation were made to the National Convener, relating to two children. These are detailed below. The Local Authorities in question are not named in order to prevent children from being identified.

Breach 1: The Local Authority did not provide appropriate supervision and support to the child.

Breach 2: The Local Authority did not facilitate contact between a child and a parent.

(3) Action Taken

Breach 1: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Breach 2: The National Convener wrote to the Local Authority and corrective action was taken. No application to the Sheriff Principal for enforcement was necessary.

Comment and Future Developments

The duty of the National Convener to take action in the face of non-implementation of orders is a valuable mechanism in making sure that the rights of children to receive protection and assistance are upheld. In all instances of breaches, intervention by the National Convener was only required at the end of 'Stage 1'. No breaches were advanced to 'Stage 2'.

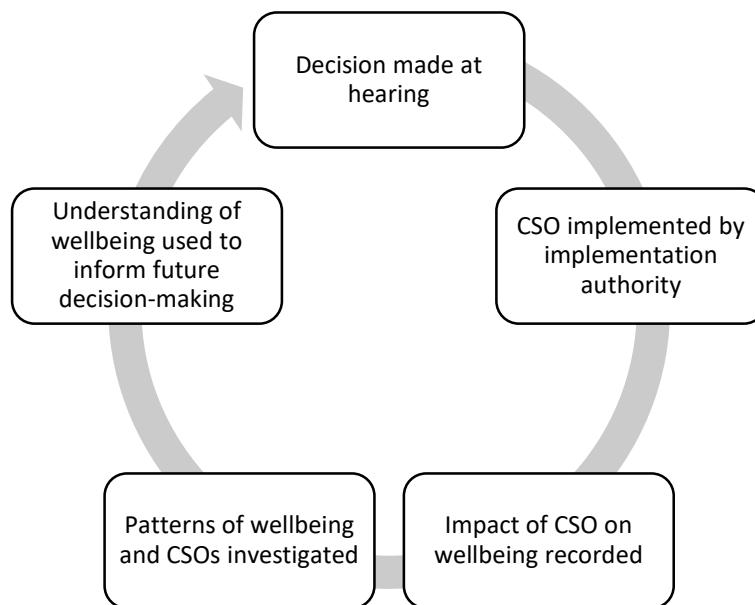
During this three year reporting period only five implementation breaches were reported to the National Convener for action. These came from within three Local Authorities. This is an exceptionally low total number relative to the overall number of orders requiring implementation by authorities over this period. As stated in our last Feedback Loop report, whilst it is heartening to see that such low numbers of breaches are reported, it raises the question of whether this is a true reflection of all breaches of implementation duties that occur across Scotland or whether they represent, for example, only the most serious or repeated breaches. It remains our view that the statutory reporting of breaches is an essential part of the National Convener's legislative 'toolkit' to protect the rights of children. Whilst its potential has yet to be fully realised, the National Convener is committed to addressing this.

'The Promise' 2020 report from the Independent Care Review highlights the importance of ensuring orders are carried out: "if implementing authorities fail to comply with orders and conditions of the Hearing, then they must be held to account to ensure children and families get the help and support that the Panel wants them to receive". The importance of this is reiterated by the 'Hearings for Children' Report published in May 2023.

That latter report highlights that a breach of implementation may, on occasion, only be brought to the hearing's attention after the lifespan of the order. In order to address this, CHS welcomes more robust oversight of the orders made by hearings and their implementation, and we look forward to the Scottish Government's response to the 'Hearings for Children' report, due in late 2023.

CHS will continue to monitor the number and types of breaches that are reported in order to identify any patterns and will also investigate whether breaches are being reported via this mechanism. At the close of this reporting period, we are undertaking research to ascertain the true extent of the issues underlying the implementation of orders in Scotland. The National Convener is also committed to investigating whether there is sufficient awareness of the steps that can be taken to enforce orders in all local authority areas.

Understanding and reporting on the processes around implementation breaches only gives us part of the picture. Both the National Convener and CHS remain committed to achieving a more meaningful data set for Scotland's care system – one that allows us to understand how effectively our systems work by capturing not just the elements of process, but the outcomes and impact on the wellbeing of children. We hope to use wellbeing data to inform decision-making and therefore close the 'Feedback Loop':



This reflects the vision articulated in ‘The Promise’ report, which notes that “Scotland collects data on the ‘care system’ and its inputs, processes and outputs rather than what matters to the experiences and outcomes of the people who live in and around it...Scotland must improve the quality and completeness of its data and consider the potential of data linkage to improve accountability for outcomes rather than inputs alone”.

There is clear alignment between what the Feedback Loop is trying to achieve, and the ambitions of both The Promise and the Hearings System Working Group. It is clear that further work is required to gather a more meaningful data set – we must ascertain if orders are being carried out, but we must also gain an understanding of whether these orders are leading to better outcomes for children in Scotland.

This work will inevitably take time and investment. However, the National Convener is committed to making these improvements so that the Feedback Loop and the data that informs it provide the right information to help improve outcomes for children.

Notes on the Data

The tables feature a count of hearings that made a particular decision during the year. It includes only those decisions that require implementation by an implementation authority.

The years given refer to financial years (1 April to 31 March).