

# Consultation on a proposal for a Children and Young People Bill



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

Please key F11 to move between fields

### 1. Name/Organisation

Organisation Name

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### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

*Please tick as appropriate*

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes  No

#### 4. Background

In analysing your response, it would be helpful to know your background. Please indicate the area which best describes your involvement with children from the options below.

**Please tick box as appropriate:**

- |                               |                                     |
|-------------------------------|-------------------------------------|
| <b>Early Years</b>            | <input type="checkbox"/>            |
| <b>Education</b>              | <input type="checkbox"/>            |
| <b>Health</b>                 | <input type="checkbox"/>            |
| <b>Justice</b>                | <input type="checkbox"/>            |
| <b>Parent/Carer</b>           | <input type="checkbox"/>            |
| <b>Police</b>                 | <input type="checkbox"/>            |
| <b>Social Work</b>            | <input type="checkbox"/>            |
| <b>Sport and Leisure</b>      | <input type="checkbox"/>            |
| <b>Voluntary Organisation</b> | <input type="checkbox"/>            |
| <b>Other</b>                  | <input checked="" type="checkbox"/> |

#### Research

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## CONSULTATION QUESTIONS

### 1. A SCOTLAND FOR EVERY CHILD

***More effective rights for children and young people***

1. Do you feel that the legislative proposals will provide for improved transparency and scrutiny of the steps being taken by Scottish Ministers and relevant public bodies to ensure the progressive realisation of children's rights?

The commitment of the Minister, Aileen Campbell, to children's rights is welcomed: "We want a Scotland where the rights of children and young people are not just recognised, but rooted deep in our society and our public services. A nation that strives to make these rights real in our everyday lives"<sup>1</sup>.

The Scottish Government (as part of the UK Government) has the responsibility to observe and implement the UN Convention on the Rights of the Child (UNCRC), amongst human rights treaties, but the UNCRC is not currently actionable in any domestic court. The proposed Bill, if underlined by processes and commitments, could ensure that children's rights are given more breadth and depth in policy-making and thus practice.

**However, the Bill does not propose to incorporate the UNCRC into domestic law. This should be the ultimate goal of the Scottish Government, to fulfil its commitment 'to make rights real'. This goal could be clearly stated, with a timeline and supporting process for due consideration.** UNICEF UK will be completing its cross-national report on UNCRC incorporation imminently and its work can help support such discussions.

In the absence of full incorporation, the intent behind the legislative proposals is welcome. It is currently unclear from the consultation paper how the proposed duty on Scottish Ministers "to take appropriate steps to further the rights of children and young people" would be framed legally and thus its precise effectiveness. It is not clear how widely this duty would extend over ministerial functions. The process supporting any such duty is not yet identified: any such process should be transparent, open to scrutiny and meaningfully impact on policy-making and other ministerial functions. It is not clear what avenues there would be to challenge Ministers' exercise of the duty.

**Thus, further information from the Scottish Government about the precise framing of this duty and its supporting process(es) would enhance debate about this important development.**

**The proposed duty on Scottish Ministers should be extended to public bodies.** The current proposals would not be effective, in at least two ways:

1) Public bodies could fulfil their obligation by publishing a report that states they have made no progress towards implementing children's rights. Thus the reporting duty could enhance transparency, accountability and scrutiny – but not progressive implementation of children's rights, 'making rights real'.

2) The consultation paper proposes that the Scotland's Commissioner for Children & Young People have extended powers to investigate infringements of individual children's rights. As stated by the children's rights working group, "For this

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<sup>1</sup> Scottish Government (2012) A Scotland for Children, Edinburgh: Scottish Government, p. 3.

additional power to be effective, it is essential that there is a duty on public bodies in domestic law to comply with the UNCRC in the first place”<sup>2</sup>.

**The proposed duty on Scottish Ministers to promote and raise awareness of the rights of children and young people is welcomed. It should be extended, to include awareness and *understanding* of the rights of children and young people: understanding is a deeper engagement than awareness (the latter which can be superficial).** To enhance this duty, the Scottish Ministers should support and encourage the recent initiative in Scotland: Investing in Children membership scheme<sup>3</sup>. The scheme recognises and celebrates those services that can demonstrate a commitment to dialogue with children and young people that leads to change. Potential members are inspected, for evidence of both dialogue and change – and the evidence must come from the children and young people themselves. Membership lasts for one year. This scheme has worked successfully in other parts of the UK, and it is now being extended in Scottish services<sup>4</sup>.

2. On which public bodies should a duty to report on implementing children’s rights be applied?

The reporting duties suggested in chapter 1 and chapter 2, on public bodies, should be integrated into a duty to report on a common set of outcomes. To support this, a common national set of indicators should be developed, based on children’s rights and incorporating children’s wellbeing. This information would help plan and improve services for children and young people, as well as assist the Scottish Government in evidencing its objective to realise children’s rights.

3. Do you agree that the extension of the Children’s Commissioner’s role will result in more effective support for those children and young people who wish to address violations of their rights?

The extension of SCCYP’s role is supported, as one option amongst others to assist children and young people in seeking redress for rights violations.

Many practical issues would need to be addressed in order to make this new role effective, as has been outlined by SCCYP. Further detail and discussion around these issues is needed, ensuring lessons are learned from experience of other Children’s Commissioners with similar roles<sup>5</sup>.

### ***A new focus on wellbeing***

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<sup>2</sup> Together, Children in Scotland and Scotland’s Children’s Sector Forum (2012) Children’s rights working group briefing, Edinburgh: Together, p. 5.

<sup>3</sup> See this website for more information <http://www.iic-uk.org/pages/membership-scheme.php>

<sup>4</sup> See a news item on a successful award <http://www.claire-warden.com/newsarticle.cfm/ID/31>

<sup>5</sup> E.g. discussion in Dunford, J. (2010) Review of the Office of the Children’s Commissioner (England), [www.education.gov.uk/publications/eOrderingDownload/Cm-7981.pdf](http://www.education.gov.uk/publications/eOrderingDownload/Cm-7981.pdf)

4. Do you agree with the definition of the wellbeing of a child - or young person - based on the SHANARRI Wellbeing Indicators, as set out in the consultation document?

5. Do you agree that a wider understanding of a child or young person's wellbeing should underpin our proposals?

**New duties that bring together, clarify and firmly embed joint working approaches across the public sector, are welcomed.** While much effort has been extended to improving joint working in Scotland, there remain considerable gaps and overlaps and too many children, young people and families continue to experience difficulties<sup>6</sup>.

**Amendments to the Children (Scotland) Act 1995 in this regard are welcomed.** The children's sector never supported the introduction of 'children in need' for Scotland, as it was a retrogressive step from the previous provisions in the Social Work (Scotland) Act 1968<sup>7</sup>. This was further emphasised in research undertaken in 2007, on its implementation in Scotland. The main findings were:

Children in need did not seem to be 'leading' planning nor practice.

- Only 5 out of 32 local authority Integrated Children's Services Plans made explicit use of children in need and used it as an organising concept.
- According to managers, children in need was sometimes used to justify service provision, but 'children at risk' was far more commonly used.
- Children in need was rarely used explicitly by fieldwork teams.

Children in need -- as a status and a legal category -- could be used successfully to claim resources within social work or from other agencies, according to managers and fieldwork teams.

Children in need had greatly enhanced social work attention to children affected by disabilities and their families.

Fieldwork teams described children in need as a minimum threshold to 'get through the door' of children's services but further prioritisation was often necessary for children and their families to receive support.

Social work research elsewhere continues to find children in need services 'squeezed out' by the demands of child protection. This was also found here in social work practice: 'statutory work' was often prioritised over children in need. The latest plans, however, covered a much broader range of children and services.

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6 Davis J.,M., and Smith M., (2012) Working in Multi-professional Contexts A Practical Guide for Professionals in Children's Services, London: Sage.

7 Tisdall, E.K.M. (1997) The Children (Scotland) Act 1995—Developing law and practice for Scotland's children. Edinburgh: The Stationery Office.

Although the children in need duties apply to all local authority services, fieldwork teams thought they were largely perceived as belonging to social work. Definitions of children in need were not always common across services, according to managers and fieldwork teams.

Managers and fieldwork teams were reluctant for children in need to be replaced. Certain advantages of the category were described: it was holistic; it was tied to assessment, which social workers saw as one of their core skills; and it was flexible. A large minority of respondents suggested the duty and definition be revised.

The Scottish Government's proposal is to amend 'children in need' duties, to reflect the intention of promoting wellbeing along SHANARRI lines. This sets up a potential conflict and a lack of coherence between a rights-based agenda within chapter 1 and chapter 2 of the proposed bill, unhelpfully suggesting that the children's rights and children's wellbeing agendas are separate. This is underlined by a proposal for two separate reporting duties (albeit recognising that they could be coordinated).

The Scottish Government decided not to go forward with the separate Rights of Children and Young People Bill, with the following reasoning:

Therefore, the Scottish Government feels that it would be sensible to secure and reinforce delivery of the rights of children and young people as part of a single integrated Children and Young People Bill that will also include measures to improve children's services, rather than in separate legislation<sup>8</sup>.

The proposed Children and Young People Bill indeed does provide an opportunity to embed children's rights across children's services, so that children's rights can be realised in their daily experiences. **To achieve this, the definition of 'wellbeing' needs to be set within the children's rights framework; children's rights should be the overarching principles for the Bill. The proposed duties on public bodies to work together should be focused on improving children and young people's rights.**

It should be remembered that a notable, positive effect of the 'children in need' category was the specific attention to disabled children, and children adversely affected by a family member's disability. This was noted as having a positive effect in focusing local authorities' resources to provide needed support for such families. Yet, considerable problems continue to be documented about services adequately supporting children affected by disability<sup>9</sup>. 'Proofing' the Bill's proposals to ensure that they enhance the rights of this group of children and young people would be essential, especially because other legislation ([Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#)) also needs to fit with the proposals here.

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<sup>8</sup> Scottish Government (2012) Scottish Government Response: Consultation on Rights of Children and Young People Bill, <http://www.scotland.gov.uk/Resource/0039/00392992.pdf>, p.3

<sup>9</sup> Scottish Government (2011) National Review of Services for Disabled Children and Young People, <http://www.scotland.gov.uk/Publications/2011/02/25151901/1>

## ***Better service planning and delivery***

6. Do you agree that a duty be placed on public bodies to work together to jointly design, plan and deliver their policies and services to ensure that they are focussed on improving children's wellbeing?

Section 19 of the Children (Scotland) Act 1995 on children's services plans was never universally successful in ensuring cross-service cooperation. The legal duty was on local authorities, and health boards and NHS trusts had no obligation to collaborate – they only needed to be consulted. There was no requirement to involve children and young people, in the development of such plans. The involvement – or not – of voluntary organisations was problematic in children's services planning, in some local authority areas<sup>10</sup>.

**As stated above, the proposed duties on public bodies to work together should be focused on improving children and young people's rights.**

7. Which bodies should be covered by the duties on joint design, planning and delivery of services for children and young people?

Comments

8. How might such a duty relate to the broader Community Planning framework within which key service providers are expected to work together?

Comments

## ***Improved reporting on outcomes***

9. Do you agree that we should put in place reporting arrangements making a direct link for the public between local services and outcomes for children and young people?

Comments

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<sup>10</sup> E.g. Tisdall, E.K.M. and Bell, A. (2003) Partnership in Planning: local authorities working together to improve children's services, Edinburgh: Scottish Executive.

10. Do you think that these reporting arrangements should be based on the SHANARRI Wellbeing Indicators as set out in this consultation paper?

Comments

11. On what public bodies should the duty for reporting on outcomes be placed?

Comments

## 2. A SCOTLAND FOR EACH CHILD

### ***Improving access to high quality, flexible and integrated early learning childcare***

12. Do you agree that the Scottish Government should increase the number of hours of funded early learning and childcare?

Most families in Scotland use childcare in the early years<sup>11</sup>. Accessing available, affordable and quality childcare remains a key concern for parents combining caring and working<sup>12,13</sup>.

Evidence from GUS shows that most mothers of young children who are in paid work, work between 16-35 hours per week<sup>14</sup>. Mothers value work highly, not only

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<sup>11</sup> Bradshaw P. and Wasoff F. (2009) Growing Up in Scotland: Multiple Childcare Provision and Its Effect on Child Outcomes. Edinburgh: Scottish Government.

<sup>12</sup> Bradshaw P, Cunningham-Burley S, Dobbie F, McGregor A, Marryat L, Ormston, R. and Wasoff F. (2008) Growing Up in Scotland: Sweep 2 Overview Report, Edinburgh: The Scottish Government

<sup>13</sup> McKie, L., Gregory, S. and Bowlby, S. (2004) Caringscapes: the experiences of caring and working. CRFR research briefing No.13. Edinburgh: Centre for Research on Families and Relationships.

<sup>14</sup> Bradshaw P, Cunningham-Burley S, Dobbie F, McGregor A, Marryat L, Ormston, R. and Wasoff F. (2008) Growing Up in Scotland: Sweep 2 Overview Report, Edinburgh: The Scottish Government.

for its economic contribution, but also for personal identity, social contact and as an important message for their children<sup>15</sup>. Most working parents with children under 5 believe that their employment is not detrimental to their enjoyment of family life nor to their ability to raise their child(ren).<sup>1617</sup>

Exposure to non-parental childcare in the early years is beneficial to a child's cognitive development, in small effect<sup>18</sup>. For example, among other factors, children who attended pre-school were scored as more ready for starting school than those children who didn't attend pre-school<sup>19</sup>. However, universal policies that seek to improve children's cognitive ability and school readiness in the pre-school period will not benefit all children equally. GUS evidence shows that the level of parents' education qualification is a driver in a child's cognitive ability at ages 3 and 5. Similarly, lone parents, younger mothers, parents with lower educational qualifications and parents from more deprived socio-economic communities had lower levels of participation in their children's school activities – both in terms of homework once they had started school and in the number of activities they attended at the school. This has been shown to be associated with lower educational achievement for children<sup>20</sup>.

**Thus, any strategies aimed at improving school readiness via a pre-school setting need to include, for disadvantaged children, strategies that seek to influence the child's home environment and parenting experiences at the same time<sup>21</sup>.**

The consultation document proposes that legislation should require local authorities to “consult locally on the needs of parents and demand for places”<sup>22</sup>. Given the Scottish Government's commitment to children's rights, this would be an opportunity to recognise children's rights also to have their views considered (Article 12 of the UNCRC). The emphasis on *quality* as well as quantity of early learning and childcare is now widely accepted, and this includes due account of children's experiences and views. Early learning and childcare needs to meet the needs of the children involved, as well as the needs of their parents. The Bill should include a similar duty to that of the Childcare Act 2006, for England, that

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<sup>15</sup> Backett-Milburn K, Cunningham-Burley S, and Kemmer D (2001) *Caring and providing: Lone and partnered working mothers in Scotland*. London: Joseph Rowntree Foundation.

<sup>16</sup> Bradshaw P, Cunningham-Burley S, Dobbie F, McGregor A, Marryat L, Ormston, R. and Wasoff F. (2008) *Growing Up in Scotland: Sweep 2 Overview Report*, Edinburgh: The Scottish Government.

<sup>17</sup> Backett-Milburn, K., Harden, J., Maclean, A., Cunningham-Burley, S. and Jamieson, L (2011) *Work and family live: the changing experiences of 'young families'*. Timescapes final report, project 5.

<sup>18</sup> *Growing Up In Scotland (2009) Multiple Childcare Provision and its Effect on Child Outcomes Summary Report*. Growing Up in Scotland Topic Research Findings no.4/2009. Edinburgh: Scottish Government.

<sup>19</sup> Bradshaw, P., Hall, J., Hill, T., Mabelis, J. and Philo, D. (2012) *Growing up in Scotland: early experiences of primary school – the transition to school*. Edinburgh: Scottish Government.

<sup>20</sup> Bradshaw, P., Hall, J., Hill, T., Mabelis, J. and Philo, D. (2012) *Early experiences of primary school – parental involvement in school activities*. Growing Up in Scotland Topic Research Findings no.3/2012. Edinburgh: Scottish Government.

<sup>21</sup> Bradshaw, P. (2011) *Changes in child cognitive ability in the pre-school years*, Growing Up in Scotland Topic Research Findings no.2/2011. Edinburgh: Scottish Government.

<sup>22</sup> Para 100.

requires local authorities to have regard to information about young children's views in the design, development and delivery of early childhood services<sup>23</sup>. The duty has promoted productive involvement of young children, as evidenced by the NCB's Young Children's<sup>24</sup> Voices Network<sup>25</sup>. **Thus, children should be consulted, along with parents, to develop early learning and childcare provision.**

13. Do you agree that the Scottish Government should increase the flexibility of delivery of early learning and childcare?

Families tend to use a mixture of informal (typically grandparent) and formal providers for their childcare arrangements<sup>26</sup>. Paragraph 93 of the consultation document correctly cites GUS research showing that many families rely on two or more childcare providers; the evidence says that using multiple providers, and for differing durations, does not have any negative impact on children with regards to their cognitive or behavioural outcomes<sup>27</sup>.

While having both parents working is more typical in families that co-reside<sup>28</sup>, the employment status of other family types is not as stable: lone parent families and re-partnered families are more likely to have no parent in employment than couple families<sup>29</sup>. Lone mothers<sup>30</sup>, families living on low incomes<sup>31</sup> and families affected by disability<sup>32</sup> are particularly affected by lack of affordable childcare. Flexibility in childcare provision needs to be matched by flexibility in workplace practices and employment opportunity:

- The choice of job for many mothers is constrained by family responsibilities. They require flexibility in hours and working conditions, and for many this means taking low-grade work<sup>33</sup>.

<sup>23</sup> S. 3. For the mandatory local authority assessment of the sufficiency of childcare provision, The Childcare Act 2006 (Local Authority Assessment) (Wales) Regulations 2008 requires local authorities to consult children, in the local authority area, as the local authority considers appropriate. This caveat as 'appropriate', however, is unduly open – practicability may be a better expectation, or 'reasonable steps' as required within equalities legislation.

<sup>24</sup> European Commission (2011) Communication Early childhood education and care: providing all our children with the best start for the world of tomorrow COM(2011) 66 final, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0066:FIN:EN:PDF> (accessed 31.8.12)

<sup>25</sup> <http://www.ncb.org.uk/ycvn>

<sup>26</sup> Jamieson, L., Warner, P. and Bradshaw, P. (2012) The involvement of grandparents in children's lives. Growing Up in Scotland Topic Research Findings no.1/2012. Edinburgh: Scottish Government.

<sup>27</sup> Growing Up In Scotland (2009) Multiple Childcare Provision and its Effect on Child Outcomes Summary Report. Growing Up in Scotland Topic Research Findings no.4/2009. Edinburgh: Scottish Government

<sup>28</sup> Jamieson L and Morton S (2005) 'Work-life balance across the lifecourse' CRFR research briefing 21. Edinburgh: CRFR

<sup>29</sup> Growing Up in Scotland (2009) Non-resident parent summary report. Growing Up in Scotland Topic Research Findings no. 1/2009. Edinburgh: Scottish Government.

<sup>30</sup> Backett-Milburn K, Cunningham-Burley S, and Kemmer D (2001) Caring and providing: Lone and partnered working mothers in Scotland. London: Joseph Rowntree Foundation.

<sup>31</sup> McKendrick J, Cunningham-Burley S and Backett-Milburn K (2003) Life in low income families in Scotland: Research report. Edinburgh: Scottish Executive.

<sup>32</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>33</sup> Backett-Milburn K, Cunningham-Burley S, and Kemmer D (2001) Caring and providing: Lone and partnered working mothers in Scotland. London: Joseph Rowntree Foundation.

- Parents working full-time and those in lower supervisory or technical occupations were more likely to say that their employment had a negative impact on family life<sup>34</sup>.
- Lone mothers of children of all ages are more likely to experience employment barriers, particularly lack of suitable childcare. Low qualifications, lack of confidence, family health issues, lack of training and transport are other barriers they face<sup>35</sup>.
- Parents of disabled children face particular barriers around employment, including inflexible employers, and especially a lack of affordable and appropriate childcare<sup>36</sup>, which are not addressed in the consultation document.

Factors associated with poverty can add up to make it tougher for families. Working towards reducing health inequalities, debt and issues related to long-term unemployment<sup>37</sup>, alongside childcare provision, will have a positive impact on families and children:

- Families affected by disability are among the most at risk of poverty<sup>38</sup>. The additional costs of parenting with a disability are not acknowledged by the benefits system. This might include costs of specialist or adapted equipment to aid participation, increased transport costs, paying a support worker's costs with going out<sup>39</sup>.
- Work, does not in itself, protect families from poverty, particularly when there is only one worker in the household. Families in deprived areas often require quite complex childcare arrangements to make work a possibility<sup>40</sup>.

**Therefore, developments in early learning and childcare must marry the need for high-quality early learning and childcare, that benefits children, and the need for flexible and accessible early learning and childcare that enables parents to take up employment. The present array of early learning and childcare services does not do both adequately, for many families and particularly for those in more disadvantaged circumstances.**

14. Do you think local authorities should all be required to offer the same range of options? What do you think those options should be?

<sup>34</sup> Bradshaw P, Cunningham-Burley S, Dobbie F, McGregor A, Marryat L, Ormston, R. and Wasoff F. (2008) Growing Up in Scotland: Sweep 2 Overview Report, Edinburgh: The Scottish Government.

<sup>35</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>36</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>37</sup> McKendrick J, Cunningham-Burley S and Backett-Milburn K (2003) Life in low income families in Scotland: Research report. Edinburgh: Scottish Executive.

<sup>38</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>39</sup> About Families (forthcoming) Parenting and support. Edinburgh: Centre for Research on Families and Relationships.

<sup>40</sup> Barnes, M., Chanfreau, J. and Tomaszewski, W. (2010) The circumstances of persistently poor children summary report. Growing Up in Scotland topic research findings no.1/2010. Edinburgh: Scottish Government.

Evidence shows that deprived or low-income neighbourhoods typically lack the basic amenities and services of other areas<sup>41</sup>, but options available to local communities need to be responsive to local circumstance and local environments:

- Parents from low-income areas tend to have low levels of social support and are least likely to access formal services<sup>42</sup>.
- People living in rural areas and areas of higher deprivation are less likely to be able to access childcare services than those in urban areas<sup>43</sup>.
- Living in child friendly communities and having a reasonable level of resources, such as access to outdoor play, are also very important to outcomes for children<sup>44</sup>.

There is a balance between reaching and supporting vulnerable families not much in contact with services, and making sure that targeted services do not stigmatise the people they are trying to help. Many involved in early years' services stressed the importance of mainstream and universal programmes<sup>45,46</sup>.

**Thus, it is not recommended that local authorities be required to offer the same range of options, but they should be required to offer a *minimum* range of options.**

15. How do you think the issue of cross-boundary placements should be managed, including whether this might be through primary or secondary legislation or guidance?

While many agencies see the benefits of working closer together, sufficient time needs to be built in to allow for effective collaborations. Tensions between strategic planning, management and service delivery can exist with collaborative working being driven in different ways, at different speeds and having different consequences at each level<sup>47</sup>.

16. Do you agree with the additional priority for 2 - year olds who are 'looked after'? What might need to be delivered differently to meet the needs of those children?

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<sup>41</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>42</sup> About Families (2012) Parenting on a low income. Edinburgh: Centre for Research on Families and Relationships.

<sup>43</sup> Growing Up in Scotland (2009) Parenting and the neighbourhood context summary report, Growing Up in Scotland Topic Research Findings no. 3/2009. Edinburgh: Scottish Government.

<sup>44</sup> Growing Up in Scotland (2009) Parenting and the neighbourhood context summary report, Growing Up in Scotland Topic Research Findings no. 3/2009. Edinburgh: Scottish Government.

<sup>45</sup> CRFR and ScotCen (2004) Report on the development and expansion of Sure Start Scotland services since 2001. Edinburgh: Scottish Executive

<sup>46</sup> CRFR and ScotCen (2004) Report on the development and expansion of Sure Start Scotland services since 2001. Edinburgh: Scottish Executive

<sup>47</sup> CRFR and ScotCen (2004) A baseline study of outcome indicators for early years policies in Scotland: final report. Edinburgh: Scottish Government.

Comments

### ***The Named Person***

17. Do you agree with the proposal to provide a point of contact for children, young people and families through a universal approach to the Named Person role?

We know that it is important to support families who need help. We know that parents who feel supported have a positive impact on their child's cognitive, social, emotional and behavioural development. We also know that parents who feel supported are more open to seeking help and advice when they need it<sup>48</sup>. However, provision of services does not always result in uptake. Young mothers, particularly lone mothers on low incomes, are the most wary of professionals<sup>49</sup>, as are mothers from ethnic minority communities<sup>50</sup>.

**Any strategies aimed at improving school readiness via a pre-school setting need to include, for disadvantaged children, strategies which seek to influence the child's home environment and parenting experiences at the same time<sup>51</sup>.**

18. Are the responsibilities of the Named Person the right ones? Are there any additional responsibilities that should be placed on the Named Person?

Comments

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<sup>48</sup> Growing Up in Scotland (2009) Parenting in the Neighbourhood Context. Growing Up in Scotland Topic Research Findings No.3/2009. Edinburgh: Scottish Government

<sup>49</sup> Jamieson, L. (2008) Parenting practices and support in Scotland. CRFR research briefing no.40. Edinburgh: Centre for Research on Families and Relationships.

<sup>50</sup> About Families (2012) Parenting on a low income. Briefing 3. Edinburgh: Centre for Research on Families and Relationships.

<sup>51</sup> Bradshaw, P. (2011) Changes in child cognitive ability in the pre-school years, Growing Up in Scotland Topic Research Findings no.2/2011. Edinburgh: Scottish Government.

19. Do you agree with the proposed allocation of responsibilities for ensuring that there is a Named Person for a child at different stages in their lives set out in the consultation paper?

Comments

20. Do you think that the arrangements for certain groups of school-aged children as set out in the consultation paper are the right ones? What, if any, other arrangements should be made? Have any groups been missed out?

The consultation document highlights a number of groups of school-aged children who would benefit from alternative arrangements around having a named person. These are typically children who are outwith the local authority education system and who move around a lot. There may, however, be times when individual children who do not fall into these categories also require additional attention to make sure the arrangements work for them:

We know that family change can be disruptive for all members of a family and that families need to be supported through this process. Children or young people experiencing family change through the divorce, separation, or re-partnering are also more likely to experience other changes such as moving house, town or school<sup>52</sup>. Family disruption or absence of a family member, in addition to other associated changes can stack up and push the balance towards risk for all family members<sup>53</sup>.

Children living in complex family or household situations, such as children and young people who are affected by parental alcohol problems, are wary about sharing any knowledge outside of the family. Some children were worried that the involvement of professional adults, such as teachers, may lead to the family no longer being able to live together. The emphasis for children and young people living in these circumstances was that seeking support required a trusting relationship – whether this involved families, friends, teachers, social workers or service practitioners<sup>54</sup>.

## ***The Child's Plan***

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<sup>52</sup> Hight G and Jamieson L (2007) Cool with change: young people and family change. Edinburgh: CRFR

<sup>53</sup> Hight G and Jamieson L (2007) Cool with change: young people and family change. Edinburgh: CRFR

<sup>54</sup> Hill, L (2012) Listening to and learning from children and young people affected by parental alcohol problems. CRFR Research Briefing, no.58. Edinburgh: Centre for Research on Families and Relationships.

21. Do you think a single planning approach as described in the consultation paper will help improve outcomes for children?

Comments

22. How do you think that children, young people and their families could be effectively involved in the development of the Child's Plan?

The UNCRC has been influential in recognising the rights of all children to have their views considered, in all decision that affect them. This has been embraced by many sectors in Scotland<sup>55</sup>. **Young children**, however, are often excluded from broader participation activities. There is considerable expertise within the early years sector itself on how to consult meaningfully with children and young people on policy and practice. This expertise could beneficially be spread beyond the early years sector – to ensure children under the age of 8 are routinely included in local and national policy-making.<sup>56</sup>

A preoccupation with children's 'voice' can ignore the many ways children express their views, and this may be particularly true for young children<sup>57</sup>. Most children prefer small group discussions, but children acknowledge that this would not suit everyone and the option of one-to-one discussion or giving views in writing should be offered.

Some children and young people may be concerned about **confidentiality** which can affect their willingness to take part in consultation. CRFR participated in the Roundtable Event organised by the Centre for Learning on Child Protection and ChildLine on *Children's Confidentiality in an Age of Information Sharing*<sup>58</sup>. Key points of this are relevant:

- Confidentiality is of fundamental importance to children and young people when accessing support from services or professionals
- 'Confidentiality' and 'information sharing' are not well understood in practice
- Professional guidance and practice differs with regards to children's right to

<sup>55</sup> Scott M, Adam R and S Cunningham-Burley (2004) Developing a Child Impact Analysis in South Ayrshire: A briefing paper. CRFR research carried out for the Scottish Executive.

<sup>56</sup> Tisdall, K. and Gadda, A. with Davis, J. (2011) Early Years Practice – Consulting with Young Children, Unpublished research report for Scotland's Commissioner for Children & Young People.

<sup>57</sup> Tisdall, K. and Gadda, A. with Davis, J. (2011) Early Years Practice – Consulting with Young Children, Unpublished research report for Scotland's Commissioner for Children & Young People and Tisdall, E.K.M. (2012) 'The Challenge and Challenging of Childhood Studies? Lessons from disability studies and research with disabled children', *Children & Society*, 26(3): 181-191.

<sup>58</sup> (2011) <http://withscotland.org/download/finding-the-balance-children-s-right-to-confidentiality-2011-final-pdf>.

confidentiality; this presents specific challenges with multiagency working and may lead to unnecessary breaches of confidentiality

- There is an inherent tension in respecting children's right to confidentiality in a process-driven child protection system
- There is a need for societal debate about the child's right to confidentiality and the professional response to child protection.

**Parents** who do take part in planning feel unhappy when they do not receive feedback about action taken and when they were unsure that the consultation had resulted in any change. Key components of a successful consultation are that it should be worthwhile, visible, action-oriented, realistic and fit-for-purpose.<sup>59</sup>

### ***Right to support for looked-after children***

23. Do you agree that care-leavers should be able to request assistance from their local authority up to and including the age of 25 (instead of 21 as now)?

Comments

### ***Corporate Parenting***

24. Do you agree that it would be helpful to define Corporate Parenting, and to clarify the public bodies to which this definition applies? If not, why not?

Comments

25. We believe that a definition of Corporate Parenting should refer to the collective responsibility of all public bodies to provide the best possible care and protection for looked-after children and to act in the same way as a birth parent would. Do you agree with this definition?

Comments

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<sup>59</sup> Adam, R. (2007) Consulting on children's services: getting the views of children, parents and service providers. CRFR Research Briefing no.35. Edinburgh: CRFR.

***Kinship care***

26. Do you agree that a new order for kinship carers is a helpful additional option to provide children with a long-term, stable care environment without having to become looked after?

Comments

27. Can you think of ways to enhance the order, or anything that might prevent it from working effectively?

Comments

***Adoption and permanence***

28. Do you agree that local authorities should be required to match adoptive children and families through Scotland's Adoption Register?

Comments

***Better foster care***

29. Do you agree that fixing maximum limits for fostering placements would result in better care for children in foster care? Why?

Comments

30. Do you agree foster carers should be required to attain minimum qualifications in care?

Comments

31. Would a foster care register, as described, help improve the matching by a local authority (or foster agency)? Could it be used for other purposes to enhance foster care?

Comments

32. Do you think minimum fostering allowances should be determined and set by the Scottish Government? What is the best way to determine what rate to pay foster carers for their role – for example, qualifications of the carer, the type of ‘service’ they provide, the age of child?

Comments

***Assessing Impact***

33. In relation to the Equality Impact Assessment, please tell us about any potential impacts, either positive or negative; you feel the legislative proposals in this consultation document may have on any particular groups of people?

Comments

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34. In relation to the Equality Impact Assessment, please tell us what potential there may be within these legislative proposals to advance equality of opportunity between different groups and to foster good relations between different groups?

Comments

35. In relation to the Business and Regulatory Impact Assessment, please tell us about any potential economic or regulatory impacts, either positive or negative; you feel the legislative proposals in this consultation document may have, particularly on businesses?

Comments

**Thank you for responding to this consultation.**

**Please ensure you return the respondent information form along with your response.**

**The closing date for this consultation is 25 September 2012. Please return to [childrenslegislation@scotland.gsi.gov.uk](mailto:childrenslegislation@scotland.gsi.gov.uk)**

or

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