



# Children's Services Planning: Provision of Statutory Guidance – June 2019

## About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 400 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations.

### 1. Does the statutory guidance provided to date assist in the effective development of a Children Services Plan?

Yes - the guidance assists in the effective development of a Children's Services Plan but could be strengthened in accordance with our response to Question 2.

### 2. What part(s) of the guidance were most helpful or least helpful?

#### How could the guidance be enhanced to strengthen the effective development of a Children's Services Plan?

To deliver on its aims, the guidance should be strengthened and enhanced in two key areas: (1) ensuring the participation of children and young people; and (2) ensuring the use of CRWIA.

Children and young people have a right to be involved in the decisions affecting them (Article 12 UNCRC). Ensuring their involvement would benefit all stages of the Children's Services Planning cycle. Within the suggested steps for Children's Services Planning (para. 43), it would be particularly beneficial to involve children and young people in mapping services. Their unique insight and experience will be of immense value and would help to ensure a robust assessment of what services may directly or indirectly impact on them. Furthermore, in the analysis of population need, steps should be taken to ensure that information gathered through the quantitative assessment of population need is used to inform active consultation with specific groups of particularly vulnerable children and young people. Their views and experience will be of great importance in planning how to address specific wellbeing needs which are not being addressed by existing services.

Whilst the guidance makes reference to Article 12 UNCRC, it should also be underpinned by General Comment No. 12 of the UN Convention on the Rights of the Child (UNCRC) (<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>). This would ensure that specific measures could be articulated to support local authorities and health boards taking forward the aims of Part 3, such as ensuring children and young people are empowered to inform the design and delivery of healthcare services, education, play, sports and cultural activities and in the development of prevention strategies.

The guidance should recommend the use of Children's Rights and Wellbeing Impact Assessments (CRWIAs) from the outset of children's services planning. CRWIAs ensure a rights-based approach whereby children's human rights are embedded throughout the planning process. In General Comment No. 5 of the UN Convention on the Rights of the Child,

([https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en)) the Committee on the Rights of the Child emphasises that continuous use of impact assessments gives the best protection for children’s human rights.<sup>1</sup> Although the guidance (paras 77-78) makes reference to CRWIAs, it does not emphasise enough the important role that CRWIAs play as a policy development tool, supporting rights-based service and practice. CRWIAs are an integral part of ensuring children’s human rights are considered from an early stage - maximising the benefits and minimising the risk of later violations arising. In order to ensure their effectiveness, the guidance should emphasise the need to carry out the CRWIA at the earliest possible stage,<sup>2</sup> and to conduct them with a clear mandate and strategy, supported across government departments and levels.<sup>3</sup> This would support public bodies in fulfilling their reporting duties under Part 1 of the Children and Young People (Scotland) Act 2014, and help ensure that the public body is working in line with the UNCRC ahead of its incorporation into Scots law. It would also further support the aims of the Children’s Services Plan, as outlined in Section 9.<sup>4</sup> By mapping out the impact of children’s rights and wellbeing against the services provided, this will not only safeguard the wellbeing of children but will also highlight any action that is required to be taken to prevent needs affecting the well-being and rights of children from arising. This helps to ensure that children, young people and families get the right support at the right time.<sup>5</sup>

### **3. Does the statutory guidance provide sufficient advice on how widely you should consult in advance of developing a Children Service Plan?**

No.

#### **How could the guidance be improved to enable effective consultation and engagement with local stakeholders during the preparation of a Children’s Services Plan?**

To enable effective consultation and engagement with local stakeholders, the guidance must ensure that children and young people are involved at all stages of developing the plan. Although the Guidance does mention that local authorities or relevant health board “*may wish to give particular attention to obtaining the views of children and young people, across all ages, socio-economic groups and types of need*”, this direction is weak and there is no mention of *how* to involve children and young people. This should be clarified by reference to the basic requirements of participation set out in General Comment 12 (paras 132-134). This would enable local authorities and relevant health boards to consult with children in the most effective and appropriate manner and ensure that children’s rights and wellbeing remain central to involvement. The consistent use of CRWIAs would help to highlight this need for ongoing participation of children and young people throughout the planning process and evaluation.

### **5. Does the statutory guidance support practitioners and staff in delivering the contents of the Children Service Plan?**

Yes.

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<sup>1</sup> CRC, ‘General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)’ UN Doc CRC/GC/2003/545 (General Comment No. 5), para 45

<sup>2</sup> Lisa Payne, “Child Rights Impact Assessment as a policy improvement tool” (2019) 24 The International Journal of Human Rights, at 8-9.

<sup>3</sup> *ibid*

<sup>4</sup> Section 9(2), Part 3 (Children’s Services Planning), Children and Young People (Scotland) Act 2014.

<sup>5</sup> Children and Young People (Scotland) Act 2014: Statutory Guidance on Part 3: Children’s Services Planning, para 56

## **How could the statutory guidance be enhanced to enable the Plan to support practitioners and operational managers deliver the local priorities and actions?**

Together welcomes that the Statutory Guidance refers to the Common Core (para 91) in terms of a local authority's and relevant health board's duty to consult in preparation of a Children's Services Plan.

To take a rights-based approach, Together recommends that Statutory Guidance should place even greater emphasis, and build upon, the Common Core. This document sets out the skills, knowledge, understanding and values that everyone should have if they work with children and young people and their families. It is explicitly cross-referenced against the guiding principles of the UNCRC: (1) non-discrimination; (2) the best interests of the child; (3) the right to life, survival and development; and (4) respect for the views of the child. Central to the Common Core is that those working with children and young people should build meaningful relationships with them (and their families). This is crucial to ensuring that children and young people feel comfortable expressing their views (Article 12 UNCRC) and helps ensure that subsequent decisions respect their rights. It could provide a key tool to support practitioners and operational managers to take a rights-based approach to delivering local priorities and actions.

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