

## Members' Briefing: Consultation on the Children and Young People Bill

### Children in Scotland's response to the Scottish Government consultation on the Children and Young People Bill

#### Background

The Scottish Government consulted on the proposed Children and Young People Bill, which it refers to as 'legislation to deliver the best package of early learning and childcare in the UK'. It will be introduced in the Scottish Parliament in the 2012-13 term.

#### Overview

Children in Scotland conducted an extensive engagement process with its membership to inform its response to the Bill, which included:

- meetings and working groups of Scotland's Children's Sector Forum
- an online survey
- external meetings, including the Scottish Parliament's Cross Party Group on Children and Young People
- individual conversations and correspondence with its nationwide membership across the public, independent and voluntary sectors.

This consultation response is an accurate reflection of what we learnt by listening to our member organisations, and the recommendations made here are widely shared by the membership.

Children in Scotland welcomes the Scottish Government's high aspirations for children, young people and families. We endorse the direction of travel as described in *A Scotland for Children*, and believe many aspects of the consultation paper provide a strong and well-presented case for change. However, the majority of our members are worried about the lack of detail and feel that the paper lacks an overall coherence in its proposals.

#### Principles of the Bill

Children in Scotland strongly recommends that the legislation be based on a range of fundamental principles:

- **Universal services** and their partners should work with communities, families, children and young people to prevent problems, with resources focused on preventative spending from preconception/pre-birth throughout childhood and adolescence

- Early intervention, whenever necessary with children, young people and families, should be delivered effectively and consistently

- All services recognise and value the diversity of children, young people, their families and communities, and services are inclusive of all children and young people, and feature personalisation and choice

- Scotland should be working towards a universal system of high quality, affordable and accessible early childhood education and care for young children, from the post-natal period through pre-school

- The Getting it Right for Every Child (GIRFEC) framework should be implemented consistently and well nationwide

- Integrated planning, policy, services, regulation, inspection and accountability across all public bodies will have a positive impact on children and families, shown through improved outcomes

- The UNCRC should be incorporated into Scots law and children and young people across Scotland must be able to understand and use these rights.

#### Section One – Children's rights

Children in Scotland and our membership:

- **Supports** the full incorporation into Scots law of the United Nations Convention on the Rights of the Child (UNCRC);

- **Agrees** with the intent of the Scottish Government to 'make rights real' and recommends doing so through the creation of a children's rights framework that Scottish Ministers and all public bodies will have a duty to consider and use in relation to both their decision making and the final outcome of their decisions

- **Favours** extending this duty to include 'increase understanding' of the UNCRC, not just to 'raise awareness' of these rights

- **Endorses** the proposed duty upon Scottish Ministers and public bodies to 'report on implementing children's rights', but recommends that this

reporting takes place at least every three years.

Further clarity will be needed, through regulations, guidance or codes of practice, about how these new duties will be defined and implemented in practice, as well as how they could and should be used to achieve positive outcomes for children and young people.

We also:

- **Recommend** that the proposed duty upon Scottish Ministers to 'take appropriate steps to further the rights set out in the UNCRC' should be extended to all public bodies

- **Support** the proposal to give new powers to Scotland's Commissioner for Children and Young People (SCCYP) to undertake individual investigations of UNCRC violations, as long as it is adequately resourced and understood to be one of several options for redress.

#### Section Two – GIRFEC and Integrated Services

We are disappointed that GIRFEC has not been implemented nationwide more fully, quickly and consistently to date. Much of the GIRFEC model and approach should appear in guidance, a code of practice or regulation, rather than in primary legislation. Many Children in Scotland members believe that effecting change through primary legislation could backfire and, inadvertently, impede GIRFEC's implementation.

But, Children in Scotland:

- **Supports** the SHANARRI (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included) Wellbeing Indicators, but thinks that they are better placed in guidance or regulation

- **Agrees** with the Scottish Government's intent to place a new focus and priority on wellbeing

- **Believes** that 'wellbeing' should routinely be coupled with 'rights' in determining indicators, assessing outcomes and measuring progress in relation to children and young people

- **Recommends** that children, young people and their families are directly and meaningfully engaged in

the development, implementation and assessment of progress under the Child's Plan

- **Supports** the principle of having a contact person across universal services. However, the current overlap of roles for the Named Person, together with concerns among many about raising expectations of universal services within the current environment, has led to serious concerns among many members that this proposal may undermine support for the GIRFEC approach
- **Recommends** greater clarity about the role and responsibility of the Named Person
- **Advocates** the inclusion of a more robust, exclusive, integrated, nationally consistent, enforceable, single Child's Plan in the final version of the Children and Young People Bill. This means adding a statutory duty shared among all the public bodies needed to effectively develop and implement this shared Child's Plan
- **Recommends** that the creation and implementation of such a Child's Plan be a legal entitlement for:
  - children in need
  - children about whom there is a cause for significant concern during the antenatal or post-natal period
  - children identified as needing extra help or support beyond that normally available through universal services in order to achieve a reasonable standard of wellbeing and rights.

### Section Three – Early years and childcare

- Children in Scotland:
- **Supports** the Bill's inclusion of at least 600 hours of publicly subsidised early childhood education and care for 3 and 4 year-olds
  - **Agrees** that this legislation should be the start of a 'step change' in how early childhood education and care is considered, managed and delivered in Scotland, nationally and locally
  - **Welcomes** the Scottish Government's aim of achieving a

coherent, universal system of early childhood education and care and the acknowledgement that what happens, or fails to happen, during the years from preconception/pre-birth to three is crucial to the long-term wellbeing and life chances of children

- **Advocates** for a new statutory duty upon Scottish Ministers to report at least every three years on the progress being made to increase awareness, understanding and action on preconception health and healthcare
- **Proposes** a new statutory reporting duty on Scottish Ministers in the area of preconception health and healthcare as another good example of making preventative spending real
- **Supports** the Bill's inclusion of greater flexibility in the provision and use of publicly subsidised early learning and childcare
- **Recommends** that the proposed entitlement to, and statutory duty to provide, flexible, publicly subsidised early childhood education and care be extended from looked after two year-olds to all two year-olds identified as being 'children in need'
- **Encourages** the creation of a new statutory duty to provide or subsidise, out of school education and childcare, including during school holidays, for all primary school-aged children who are eligible under current 'children in need' provisions.

### Section Four – Care and looked after children

- Children in Scotland:
- **Welcomes** extending the availability of support and assistance for looked after young people up to and including 25, as long as the proposed right to request help is accompanied by a statutory duty upon public bodies to promote and deliver wellbeing and rights outcomes as needed by these young people.
  - **Recommends** that this right and duty applies equally to all 'young people in need' across Scotland,

including those supported under the Children (Scotland) Act 1995

- **Supports** the Bill's intention to better acknowledge, and meet the financial and non-financial needs of, kinship carers in ways that improve the rights and wellbeing of children and young people, without undermining family bonds. But there needs to be a more robust consultation process, which engages kinship carers, and the affected children and young people
- **Welcomes** the Bill's aim of achieving swifter and more effective permanence for looked after children, but feels that this may not be the best solution for all children. Each child and young person's circumstances and options must be carefully assessed on an individual basis
- **Agrees** that children and young people should not be placed in overcrowded foster care accommodation, and therefore, in general, supports a maximum limit, individually specified, for each foster home.

### Looking ahead and next steps

Children in Scotland feels that there are additional possibilities for the Bill, including to:

- Review and amend the Children (Scotland) Act's 'children in need' provisions to link more coherently with the universal entitlements to be provided by GIRFEC
- Address children and young people's rights across all areas of this legislation
- Clarify and smooth access and support for disabled children and young people. The current legislation is too complex
- Amend existing age-based laws affecting children and young people in Scotland in order to make them sensible, coherent and consistent.

Children in Scotland will convene a meeting of Scotland's Children's Sector Forum and each of the four thematic Working Groups in November.

If you have any comments about this briefing, please contact Sara Collier at [scollier@childreninscotland.org.uk](mailto:scollier@childreninscotland.org.uk) or on 0131 222 2412.

Published by Children in Scotland – working for children and their families (SC003527)

### References

Children in Scotland – full consultation response  
<http://www.childreninscotland.org.uk/docs/CYPBillSept2012Final.pdf>

A Scotland for Children: A Consultation on the Children and Young People Bill  
<http://www.scotland.gov.uk/Publications/2012/07/7181>