

# Scottish Children's Rights Implementation and Monitoring Group

Friday 26<sup>th</sup> June 2015

Scottish Government, Victoria Quay, Edinburgh

10:00am-12:00pm

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## Attended:

Colin Armstrong (CA) – Policy Officer, Children and Families, Scottish Government

Tam Baillie (TB) – Commissioner, Scotland's Commissioner for Children and Young People (SCCYP)

Katie Brown (KB) – Head of Participation and Education, Scotland's Commissioner for Children and Young People (SCCYP)

Emma Grindulis (EG) – Policy and Communications Officer, Together (*Secretary*)

Juliet Harris (JH) – Director, Together

Fiona Jones (FJ) – Chair, Together (*Chair*)

Nico Juetten (NJ) – Policy Officer, Scotland's Commissioner for Children and Young People (SCCYP)

Phil Raines (PR) - Children's Rights and Wellbeing, Scottish Government,

Agnes Rennick (AR) – Children's Rights and Wellbeing, Scottish Government

Gita Sharkey (GS) – Rights and Participation Team Leader, Scottish Government

## 1. Apologies

There were no apologies for the meeting (Phil Raines joined the meeting at 10.30 am).

## 2. Review of actions in minutes of 19<sup>th</sup> December 2014.

- *Action: Together and SCCYP agreed to amend the Terms of Reference to reflect the suggested changes in status –for Scottish Government to consider with respect to existing Advisory Groups and Ministerial preferences, before any approach is made to the Minister's Office re: the possibility of Ministerial presence at SCRIMG.*

JH reported that the Terms of Reference have not yet been amended, and that it is important to take forward this action in the context of existing advisory groups regarding the rights and wellbeing of children (particularly long-term advisory groups).

### **Action: Scottish Government to provide a list of advisory groups relating to children.**

JH highlighted that the international obligations working group for Scotland's National Action Plan for Human Rights has considered the SCRIMG model and members have welcomed the suggestion of a ministerial group. There is interest in the Scottish Government (SG) Human Rights team regarding the potential of ministerial advisory groups focusing on specific UN human rights treaties.

JH and TB drew attention to the current UNCRC reporting round and the importance that we grasp the opportunity as the UK is being reviewed by the UN, to ensure we have a robust mechanism in place to take forward, monitor and evaluate the forthcoming 2016 Concluding Observations.

- *Action: GS agreed to arrange for completion of gaps within the CYP Act table and for circulation to attendees.*

The full version of the table is to be circulated by CA.

**Action: CA to circulate the updated CYP Act table to SCRIMG attendees.**

- *Action: GS to circulate a list of members of the Gypsy/Traveller Strategy working group and a link to census relating to Gypsy/Travellers. GS to timetable a meeting with Together, SCCYP and relevant officials to discuss the Strategy and Action Plan.*

**Action: GS to re-send a list of members of the Gypsy/Traveller Strategy working group and a link to the census relating to Gypsy/Travellers.**

### **3. Matters arising**

Please see above for discussion regarding the Terms of Reference and revision of the SCRIMG structure.

### **4. Key themes**

- **Children and Young People (Scotland) Act: commencement and guidance**

#### Part 1 duties on Scottish Ministers and the Child Rights and Wellbeing Impact Assessment

AR stated that the Ministerial duties in Part 1 of the CYP Act came into effect on 15 June 2015. The completed CWRIA to support commencement of the duties was tested by various teams in the SG and has now been circulated internally across SG departments. There has been an internal awareness-raising campaign and training and an online tool regarding information on the UNCRC is currently being developed. Guidance for implementation of the CRWIA is available on the internal government website.

In relation to the CRWIA working group, JH stated that the last meeting involved attendees discussing how the CRWIA model will fit with other duties in the CYP Act and at that point, there were still uncertainties as to how the model would be finalised in the absence of a common definition of wellbeing. JH highlighted that another meeting of the working group was expected and that it would have been appreciated if those sitting on the working group could have been more involved in the final stages of developing the CRWIA.

TB notified attendees that the SCCYP office has received queries from Local Authorities about how they can be supported to take forward their reporting duties in Part 1 of the CYP Act. TB and JH recommended that the CRWIA model should become widely available to all public bodies that have duties under Part 1. AR confirmed the clear intention to make the CRWIA available more generally once the new model has had an opportunity to further bed-in.

NJ highlighted that implementation of the CRWIA will need quality assurance and that completed CRWIAs must be published in full and not as a summary. This had been raised through the CRWIA working group and was supported by JH. As is the case with the current EQIAs, there was no plan to insist that the full CRWIA be published

GS stated that the Children's Rights and Wellbeing Team do not intend to monitor and evaluate CRWIAs taken forward by other departments but would make arrangements for them to be made publicly available in one place. It was suggested that rights-based and children's third sector organisations would in any event hold the SG to account on new policies and legislation by considering the CRWIAs produced. GS informed attendees that the Team will however be looking to share good practice examples of CRWIAs.

In relation to the measurement of wellbeing, GS stated that a tool is being developed as part of the Realigning Children's Services work around commissioning. It would be made available in 2016.

**Action: Scottish Government to circulate the CRWIA model.**

#### Raising awareness and understanding of the UNCRC and participation of children

JH and KB welcomed the work that is happening around establishing children's views which includes the work that the SG has recently commissioned on children's views in relation to the UNCRC.

JH and KB stressed that Scotland needs an overarching strategy to support the Part 1 duties to promote awareness and understanding of the UNCRC and to seek children's views in all matters affecting them. A strategic approach is necessary to connect and strengthen the work already taking place and to inform an action plan for the full implementation of all Part 1 duties.

KB stated that primarily, a strategic foundation is needed before joining up work and planning future activities: The architecture is crucial before internal walls are built.

KB recommended that the 2018 'Year of Young People' could provide a focus in the development of a strategy, building on action and reporting on the early stages of its implementation. KB informed attendees that a steering group of children aged 8-25 years has been formed to co-design the year, who are working with YoungScot, the Scottish Youth Parliament, YouthLink and Youth Scotland. KB raised the issue of how younger children might be involved and represented in this steering group.

Both JH and KB referred to the UNCRC General Comment 12 on participation as a useful framework and offered help and expertise from Together and SCCYP in the process of developing a national participation strategy.

GS indicated a keenness to work with Together and SCCYP in exploring the development of such a strategy, and that there are a number of opportunities to discuss in relation to commencement of Part 3 duties of the CYP Act on public bodies and participation in relation to service users. GS confirmed that the Acting Minister for Children and Young People has expressed support for a systematic approach to participation of children and young people allowing a two way flow between national and local levels. GS confirmed that Education Scotland are working with stakeholders to

scope out options for refreshing guidance on participation in school settings. The SG and Education Scotland are working together more widely on participation including proposals to create a Hub for information on participation.

KB informed the group that it has been confirmed through the SNAP Better Culture subgroup that children and young people will be identified as rights holders in the SG's up and coming campaign on human rights and a fairer society. KB proposed that children's views should help inform content of the SG campaign. The campaign is likely to be delivered through digital media and further consideration of how children might be best supported to access campaign materials through schools would be welcome. This could inform the groundwork required to build continuing participation of children and young people in the promotion of awareness and understanding of the UNCRC. TB questioned how the i-rights project might be incorporated here.

KB and JH raised the requirement to ensure that an education and schools approach should not be refreshed in a silo but needed to be set within a broad strategic framework, and should be informed by the principles and values outlined in the General Comment to the UNCRC on Article 12. KB informed attendees that SCCYP has had lots of requests for 'core information' leaflets. CA is working on incorporating comments on the UNCRC booklet.

**Action: CA to send a stock of older leaflets to SCCYP along with copies of the new leaflet once finalised.**

### Guidance for Part 1 and Part 3

AR stated that guidance will be developed for public bodies in relation to Part 1 (2) duties of the CYP Act. NJ highlighted that the reporting duty under Part 1 (2) should be supported through systematic training for all practitioners and within all institutions, at the earliest opportunity of professional development.

AR confirmed that the government had commissioned a contractor to draft guidance for Part 1 and Part 3 of the CYP Act. In relation to GIRFEC guidance, PR stated that the analysis of responses to guidance for Part 4, 5 and 18 of the CYP Act would be published on the day of the meeting (26<sup>th</sup> June). AR noted the requirement set out in the draft Children's Rights Reporting Framework for public authorities to ensure that they have a skilled and competent workforce who are committed to respecting, protecting and fulfilling children's rights.

### Section 96 and the definition of wellbeing

JH reiterated that Together is keen to support the SG in how Section 96 and the assessment of wellbeing guidance is further developed. JH asked PR what steps were being taken to address the concern about the lack of a definition of wellbeing, with particular reference to information sharing. She questioned how such a definition might be created in a way which fits the range of requirements within the CYP Act (including information-sharing, public body reporting, child's planning etc). PR

stated that an updated draft of the statutory guidance for this section will be produced at the end of July/August 2015 and the final guidance will be issued in September 2015.

#### Part 4 (Section 26) – information sharing

PR informed the group that the government is moving beyond guidance development and is working with stakeholders regarding what the CYP Act information sharing duties will look like in practice, and what exactly is a ‘wellbeing concern.’ PR highlighted that a flexible approach is being taken and that mini-projects are taking place. JH suggested that a helpful project would be to assess the relationship and balance needed between the definition of wellbeing and the Data Protection Act, ECHR and UNCRC. This would help to address concerns voiced by some of Together’s members around the change in the information-sharing threshold and what this means in practice.

NJ pointed to the fact that Section 96 is currently being considered by the Court of Session, the judgment being awaited may change this landscape. JH raised concern of where NGOs and the voluntary sector fit into the information sharing duty. PR replied that where anyone is carrying out a function as a public service provider, then the information sharing duties in the CYP Act apply.

FJ highlighted that the DVD as part of training for the Sexual Offences Act was very well received and that such a resource could be replicated for the implementation of GIRFEC.

#### Part 2: Commissioner for Children and Young People in Scotland

TB offered an update of the current work happening regarding Part 2 of the CYP Act. TB ran through the process SCCYP has been through since January 2015 in preparation for proposed commencement in 2016. TB stated the possibility of a public campaign within the children’s sector relating to Part 2, alongside continuing work with Scottish Parliamentary Corporate Body (SPCB). TB confirmed that SCCYP await a letter due from SPCB in September 2015.

#### ➤ **UN reporting to the UN Committee on the Rights of the Child**

TB confirmed that the UK Commissioner’s report had been finalised and stated key messages from the report including poverty and austerity and access to justice. JH notified attendees that the Scottish NGO report to the UN Committee was near completion and seeking sign-up from organisations.

JH informed attendees of the difficulties and barriers faced in compiling a joint UK non-government report to the UN Committee. A proposed UK common list of issues NGO report was planned and there was strong commitment by Together for this to happen. Unfortunately, due to reasons Together was unable to control, this report did not materialise. Together is committed to continue working with organisations across the UK to produce a common issues report in advance of the UN pre-sessional meeting, which will take place at the start of October 2015.

**Action: Together and SCCYP to share final reports to the UN Committee on the Rights of the Child with the Scottish Government.**

## ➤ **Criminal Justice Bill**

In relation to raising the minimum age of criminal responsibility, NJ suggested that there are answers to the concerns SG has raised in this area. NJ confirmed that SCCYP is keen to re-enter this debate and to confront any reservations held by government. NJ stressed the upcoming election and practical implications of raising the age of criminal responsibility as areas to consider.

JH emphasised an ongoing frustration that the government remains uncommitted to providing equal protection from violence for children in law. JH suggested that this stems from a lack of understanding of what is being called for, and that there is an important distinction between the removal of 'justifiable assault' and the line consistently taken by SG that it does not wish to criminalise parents. NJ furthered this, by reflecting on the government line that it 'does not support smacking' and suggesting that much more could therefore be done to promote positive parenting and a 'culture change.'

### Other matters

AR requested an update from SCCYP regarding mosquito devices. NJ responded that a submission is being drafted for the Public Petitions Committee. NJ highlighted to the group that this area requires further work and that more recently, the focus has been on stop and search.

NJ welcomed the Whole Systems Approach included in the recently published Youth Justice Strategy, but stated that SCCYP would have liked to have been offered the opportunity to be involved in the development of the Strategy. NJ stressed that in future, consultation during development of such work would be welcomed.

NJ welcomed the decision to lower the voting age in Scotland and declared it a grand success. Despite this, an amendment was rejected to ensure that young people in secure accommodation and young offenders would benefit from the lowered voting age. NJ highlighted that this is at odds with the SG's commitment to respecting human rights, as recently shown in the debates around protecting the Human Rights Act.

NJ informed attendees that the Stop and Search Advisory Group would be reporting to the Cabinet Secretary for Justice mid-August. NJ questioned whether there has ever been a formal review of police powers to support wellbeing, in relation to GIRFEC.

## **5. Standing items**

### Optional Protocol to the UNCRC

Attendees agreed that there has been no movement on this issue.

## **6. AOB**

GS requested clarity on how minutes, agendas and one-page briefings for SCRIMG are circulated. EG confirmed that the minutes, agendas one-page briefings of the Group have always been published on the Together website.

Summary of actions	Responsibility
<b>Action: Scottish Government to provide a list of advisory groups relating to children.</b>	<b>GS</b>
<b>Action: CA to circulate the updated CYP Act table to SCRIMG attendees.</b>	<b>CA</b>
<b>Action: GS to re-send a list of members of the Gypsy/Traveller Strategy working group and a link to the census relating to Gypsy/Travellers.</b>	<b>GS</b>
<b>Action: Scottish Government to circulate the CRWIA model.</b>	<b>AR</b>
<b>Action: CA to send a stock of older leaflets to SCCYP along with copies of the new leaflet once finalised.</b>	<b>CA</b>
<b>Action: Together and SCCYP to share final reports to the UN Committee on the Rights of the Child with the Scottish Government.</b>	<b>Together/SCCYP</b>