

**Minute of Children's Rights Working Group Together /Children in Scotland
Thursday 10 May, 2012, Church of Scotland, 121 George St Edinburgh**

Chair: Elizabeth Morrison, Scottish Pre-School Play Association and Together

Attendees:

- Salena Begley, Family Fund
- Heather Coady, Scottish Womens Aid
- Sara Collier, Assistant Policy/Research Officer, Children in Scotland
- Julie Deegan Wood, Assistant Programme Manager Strategic Planning, NHS Lothian
- Andrea Glen, ENABLE
- Juliet Harris, National Development Officer, Together
- Fiona Lovett, fSDC Co-Chair, for Scotland's Disabled Children
- Marion Macleod, Senior Policy and Parliamentary Officer, Children in Scotland
- Elizabeth May, National Coordinator, Action for Sick Children (Scotland)
- Richard Meade, Public Affairs Officer, Barnardo's Cathy McCulloch, Co-Director, Children's Parliament
- Paul Mullen, Policy and Campaigns Officer, National Deaf Children's Society
- Kate Sanford, Policy Manager, Quarriers
- Fiona Robertson, Policy & Information Officer, ChildLine in Scotland
- Jim Robinson, International Taskforce on Health Promotion for Children and Adolescents
- Barbara Schuler, Policy Officer, YouthLink Scotland
- Marina Shaw, Project Manager, FABI
- Clare Simpson, Parenting Across Scotland
- Iain Smith, Policy & Information Officer, Children 1st
- Joanne Smith, Public Affairs Officer, NSPCC Scotland
- Claire Telfer, Policy and Advocacy Manager, Save the Children
- Janis Watson, Children's Rights Officer, West Lothian Council
- Lynn Whitaker, Research Assistant, Centre for Rural Childhood
- Linda Whitmore, Development Officer, ENABLE
- Avril Williamson, AHDS

Apologies:

- Jayne Bathgate, Acting Senior Policy and Planning Officer, Scottish Borders Council
- Jane Carmichael, Postgraduate Children's Rights Perth College
- Myra Clark, Manager, TYKES
- Susan Elsley, Together
- Mairi Ferris, Early Years Strategy Co-ordinator, Fife Council
- Gary Hoey, South Ayrshire Council
- Marguerite Hunter Blair, Chief Executive, Play Scotland,
- Fiona Jones, CL@N Childlaw
- Nancy Loucks, Chief Executive, Families Outside
- Maire McCormack, Head of Policy, SCCYP
- Lisa Rigby, Information and Education Officer, Shakti Women's Aid
- Anne Robertson Brown, CEO, Angus Women's Aid Respect & Equality
- Maggie Simpson, Chief Executive, Scottish Childminding Association
- Kay Tisdall, Professor of Childhood Policy, University of Edinburgh
- Claire Tudor, Scottish Refugee Council

Elizabeth Morrison welcomed everyone to the meeting and led the introductions.

1. Background to the working group

Marion MacLeod, Children in Scotland

Children in Scotland endeavours to involve its membership in consultation responses. As the policy arm of the organisation for members, it was decided at the recent Scotland's Children's Sector Forum meeting that an NGO Rights Working Group could be formed to respond to the upcoming Children's Rights legislation. Concerns raised at the previous meeting of the Forum included:

- the mechanics for means of redress when children's rights are not upheld under the new legislation;
- what *due regard* actually means;
- how *due regard* can be demonstrated.

Children in Scotland and Together (Scottish Alliance for Children's Rights) had a similar idea about forming a sub-group and so have come together – as members of each others' organisations - to get a concerted, powerful view and advocate for the children's sector.

2. Overview of responses to the Rights of Children and Young People Bill consultation

Juliet Harris, Together (Scottish Alliance for Children's Rights)

The consultation on the Rights of Children and Young People Bill is clear that it does not propose full incorporation of the UNCRC into Scots law. Responses to the consultation on the proposed Bill provide a useful frame of reference for the NGO working group. In total there were 118 responses from across Scotland from 38 public bodies, 19 local authorities (often from children's rights teams rather than from senior management), 77 NGOs and 2 individuals.

In the absence of the formal publication of a response to the consultation from the Scottish Government, Together has analysed the responses and published the paper 'Rights of Children and Young People bill – overview of consultation responses'. This paper was presented to the NGO working group. In broad terms, the proposed Bill was widely welcomed with the exception of reservations to the Bill made by legal professionals from different perspectives. There were widespread calls for the incorporation of the UNCRC into Scots' law.

3. Questions, Answers and Discussion around the consultation responses

Facilitated by Elizabeth Morrison

3.1 One Bill or two?

Given the current unconfirmed rumours, it is important to consider views around the possible merging of the Rights of Children and Children's Services bills. Issues raised included:

- Ensuring a overarching rights framework: A separate Bill would give the opportunity to specifically promote the rights agenda and have more impact on awareness of and compliance with children's rights. However, if the Bills are merged, we might not achieve the overarching framework for changing cultures and mindsets. There is a risk that a composite Bill would mean that children's rights are immediately

associated with 'children's issues' such as childcare, education etc rather than being considered across policy areas more broadly to include issues such as finance, transport and the environment. A participant drew the group's attention to the incorporation of the Human Rights Act within the Scotland Act, which is a recent example of when legislation provided an excellent vehicle for relying on rights. The group felt that implementing specific children's rights legislation would help to further embed Curriculum for Excellence and Getting it Right within Scotland. It was agreed that the Scottish Government are perhaps not recognising the amazing potential of this piece of legislation to embed children's rights within Scottish culture.

- Ensuring impact on children and young people: The NGO working group must ensure that the legislation is robust and made as strong as possible so that it has an impact on the lives of children and young people. Given recent experiences with equalities legislation, there is concern that it could just become a 'tick-box' exercise. It is important that the bill does not allow government ministers to quote it as evidence of consideration of children's rights without actually implementing them. The bill must include a strong process of monitoring and evaluation of its implementation, which in turn would strengthen the foundation on which to lay the Children's Services Bill.
- Raising awareness of rights: Some present felt that even if the outcome is a tick-box approach, it would be worth having. The Zero Tolerance campaign and Sweden's introduction of legislation that prevented people from physically chastising children were held as examples of campaigns that have created a lot of awareness of the issues. There is not currently enough debate about children's rights so this bill could kick-start this conversation.
- Changes within the Scottish Government: Less than a year ago, we were told that the Rights Bill would lay the ground for the Children's Services bill and Wales was held up as a good example. It was recognised that maybe a change in Minister and the limited capacity of the Scottish Government have impacted on this commitment. Due to the limited resources of the Scottish Government, the Rights Bill could potentially delay the Children's Services Bill. The point was made that the Children's Services Bill consultation has been dismantled and therefore there still may be the opportunity to negotiate and request two separate bills.

It was agreed that it is difficult to plan a response when it is not known what duties would be included in the bills. In practice, whether there is one Bill or two, the duties could be the same. The group agreed that now is the time to lobby if we want a separate Bill.

3.2. What were the main differences in the consultation responses?

The main difference in the consultation responses was regarding the age limits for application of the UNCRC. Some organisations expressed concern about extending the duties for Ministers to pay due regard to the UNCRC to children and young people over the age of 18.

Many present were concerned that there are other vulnerable groups of children and young people who are not looked after but who could benefit from the age limit extension in the Bill and that current provision for children and young people is not consistent. The group felt it would be useful to revisit the issue of age limit and extension of this to 21 for other vulnerable children groups.

3.3 What are our common priorities relating to the proposed Rights legislation?

The group identified common priorities for NGOs and the children's sector as a whole relating to the Scottish Government's proposed children's rights legislation: These included the need to:

- Consider issues raised by a possible combined bill and confirm what lobbying activity NGOs should take forward;
- Explore how awareness, knowledge and understanding of children's rights can be raised across all sectors and make connections with other areas of policy and practice (e.g. inclusion in workplace inductions, linking with advocacy policy agenda etc);
- Address issues raised around the age limit of the proposed bill (extend to 21 or not);
- Consider the strengths and weaknesses of *due regard* and consider if the duty should be stronger;
- Look at how knowledge and understanding of the UNCRC can be improved amongst children;
- Find out how the Common Core of Skills and Values for all children's sector workers is to be taken forward. The NGO group could press the Scottish Social Services Council or the relevant Scottish Government team to promote better dissemination. Work must include teachers and healthcare staff (including Royal Colleges and National Occupational Standards group).
- Make suggestions as to how best the duty could be extended to public bodies (e.g. inclusion of targets in local authority Single Outcome Agreements and NHS HEAT targets);
- Push for an implementation scheme to be included in the primary legislation Implementation as per the Welsh Measure;
- Look at how a means of redress could be included for children and young people.

3.4 What lobbying and advocacy opportunities are available for NGOs in the coming months?

- There is a sense of urgency to take action if we are to have a change to seek to influence policy development/legislation;
- There is a need for plenty of good opportunities for engaging key audiences and promoting children's rights e.g. perhaps we could develop a children's rights week or hold an event. Now would be a good time to start planning;
- Many new MSPs do not have a background in or awareness of children's rights which presents us with a big education opportunity;
- Prepare briefings for MSPs/others;
- Scope for involving children and young people – we need to think about how we can get them speaking directly about issues that are important to them e.g. a Facebook page.

3.5 Consulting with children and young people

The Scottish Government have approached a few organisations about consulting with children and young people on the two bills, including the Scottish Youth Parliament, Young Scot and the Children's Parliament. It was noted

that the children's rights team from the Scottish Government are genuinely welcoming of the views of children and young people and would like to work towards facilitating meaningful consultation.

The group agreed that we need to push for meaningful consultation with children and young people, be clear in our aims, seek out their voices and co-ordinate efforts within the sector. It was agreed that the recent advocacy legislation consultation appeared to be an effort by the Scottish Government to move towards better consultation with children and young people and that this is hopefully a step towards doing this more often in the future. The Children's Parliament are committed to changing the culture and the hearts and minds of parliamentarians and decision makers and offered to share with the group their consultation approach.

3.6 Additional Points

The group acknowledged that we are working in a very difficult climate but that, the more we ask for duties to be placed on local authorities and other bodies who provide children's services, the more this will impact on the cuts in Scotland. We need to push for duties to be imposed to limit the cuts to services.

Rights Respecting Schools (RRS) were discussed and it was noted that there are now 600 primary schools signed up to this in Scotland. There were concerns that RRS are too focussed on rights *and* responsibilities and that this approach had been used by some schools to manage children's behaviour rather than promoting rights. The view was expressed that RRS should stress that rights are not conditional and that teachers need to be trained in how to implement this. A participant informed the meeting that UNICEF UK has been made aware of the links RRS were making between rights and responsibilities and, as a result, have reprinted materials and briefed staff in order to improve the current situation, albeit it recognised that this would take time to take effect on the ground.

Together will be leading a closed discussion with the Law Society of Scotland and the Faculty of Advocates in a bid to analyse the proposed bill from a legal perspective. A briefing will be produced and distributed looking specifically at the duty of due regard.

4. Agreement of actions and next steps

It was agreed that a smaller short-life steering group would be established to produce discussion/briefing papers and carry out detailed work before communicating this to the wider group. This will consist of:

- AHDS
- Barnardo's
- BASW
- Children in Scotland
- Circle Scotland
- NHS Lothian
- NSPCC
- Save the Children
- Scottish Pre-School Play Association
- Together (Scottish Alliance for Children's Rights)

This decision will be followed up by email. The steering group goals and meeting dates will be decided.

5. Closing remarks

The UNICEF and Save the Children will hold an event to be held on Wednesday 16 May from 6-8pm at the Scottish Parliament.

Action for Sick Children Scotland will host an event at the Scottish Parliament around rights specifically in relation to health and education in October 2012.

All feedback and comments were welcomed by email to Juliet (<mailto:juliet@togetherscotland.org.uk>).

Elizabeth thanked everyone for coming and taking part.