



**Response to
Education and Culture Committee
Scottish Parliament request for
Evidence 26 July 2013**

Children and Young People (Scotland) Bill

Introduction

The Scottish Association of Social Work represents social workers, many offering frontline services throughout Scotland. They work in both rural and urban communities, local government and voluntary sector services and often are the gateway to local government and third sector services. SASW members are daily involved in the direct decision making about children for whom there may be concerns about their well-being. Assessing such situations is a highly complex task and will be different for each child as we seek to identify what is in the child's best interest. Not only do we have to assess and meet the child's needs, we have to assess and help manage risk and we have to do this in the context of often competing human rights issues for the child, siblings and their parents. Critical to the work is the trust that can be established between all parties to ensure the best interest of the child.

UNCRC

Families trying to provide for their children are being adversely affected by low wages, welfare reform and poor provision of affordable housing. The lack of mention of families and focus on providing support for them in this legislation leans to a bias towards thinking about provision being provided by others rather than meeting the key requirements of the UNCRC to support children being brought up in their own families. Members are very clear that a lead could have been given by the government in this Bill, by incorporating the UNCRC into Scots Law, to support children being brought up in their own families. They further argue that a Child Impact Assessment for this Bill would support this need for more concrete action. SASW is a member of the TOGETHER coalition and supports all the comments, particularly in respect of UNCRC.

Monitoring and promoting children's rights are key to the role of the Children's Commissioner and SASW welcomes the extension of the Children's Commissioners powers. However whilst we have brought to the attention of the Government the Hillingdon judgement in respect of children who apply for asylum we would still argue that the needs of these children should be explicitly covered in this legislation.

Improving the way services support children and families by promoting cooperation between services, with the child at the centre

It is important that all services working to promote children and young peoples' well-being. This is a matter of good practice and SASW members have expressed concern about how this can be promoted through legislation. Investment in helping people work together is achieved through cultural change and respect for what everyone, including the child/young person brings to the table.

Co-ordinated multi-disciplinary assessments have been around in social work for over 40 years. They are important to getting early intervention and good resources for children only if the resources are there to meet their needs. Good assessment practice has to be supported by flexible and creative solutions for meeting need. The concern from SASW members is how far primary legislation can be used for ensuring good practice, not just in the assessment stage but at the point of implementation. Social Workers would welcome more help with ensuring appropriate availability of resources than further underfunded legislation.

The child and family are critical to any plan working. They have to feel empowered, they have to own the plan and they have to feel supported by the professionals. They also need to know that their privacy in family life is respected and only information that needs to be shared with multiple professionals is done. They need to be treated with dignity and respect.

In Sec 26: Appropriate information sharing between agencies/ partners is a good working principle to include a duty on adult care providers to share info if affecting a child (mental health, illness) but there needs to be sensitivity to safeguard a child's privacy.

In Sec 33: The Child's Plan: "In having regard to child's view maturity must be considered.." This should be strengthened to ensure an overall strong message in that a child's view **must** be included

Another concern is the number of people that often get involved in the planning and review processes for people where social work and other services are involved. This has been a very clear message from young people involved in *Who Cares?* and SASW members can confirm this from their own practice. We are concerned for example by the notion of the universal element of the 'named person' in that this may add an unnecessary layer of bureaucracy to more children than it will help. We can identify no research that would support this new role in complex cases and leads to confusion with the role of the Lead Professional. Social Workers are also concerned that this may be seen as undermining the role of parents who in the majority are well able to keep focussed on their children's well-being.

Strengthening the role of early years support in children's and families' lives by increasing the amount and flexibility of funded early learning and childcare

The concern that has been raised is how will this affect some of our most vulnerable young children at a time of economic austerity? Will it take resources away from supporting some of our more critical supports in favour of a universal provision? SASW would seek reassurance that resources will not be taken away where they are most needed to prevent harm.

Ensuring better permanence planning for looked after children by improving support for kinship carers, families and care leavers, extending corporate parenting across the public sector, and putting Scotland's National Adoption Register on a statutory footing

SASW is pleased to see the proposals for strengthening the support for kinship care. The post code lottery of whether a young person or child has to be in public care before a kinship care allowance can even be considered has to be ended. The principle of the Children (Scotland) Act 1995 was one of minimal intervention and it is important that when extended families are able to offer that love, care and support to children unable to live

with their birth parents, it is done in a positive way, rather than through a series of hurdles that are off-putting to families willing to take on these additional responsibilities. For example a recent issue that has arisen since proposals for this Bill were put forward. The changes to the welfare benefits system include changes to the previous universal child benefit – these should be considered when looking at the availability of financial support.

An important part of the Bill that we fully support is the duty of support from local Authorities for young people who are in public care to the age of 26. Evidence from the UK and internationally suggests that when this has been provided young people can make positive growth from childhood to adult life. However there needs to be an avenue for redress if assistance is refused.

There is growing concern about the number of young people who have been in public care who die either through suicide, substance misuse or as victims of violence when they are still young. SASW would urge Parliament to include an automatic Serious Case Review when a young person who has left care dies.

In respect of the proposed National Adoption Register SASW would support the observations from BAAF that to make a real difference in helping find appropriate families for children there needs to be much more promotion, public education and financial assistance where children have complex needs.

Strengthen existing legislation that affects children and young people by making procedural and technical changes in the areas of children’s hearings support arrangements, secure accommodation placements, and school closures.

There comes from the equality impact assessment of this proposed legislation, in the formal decision making of bodies like the Children’s Hearings, issues about competing rights, whether between parents and children or between siblings, before even considering the potential role of the wider family like grandparents, aunts and uncles.

One illustration is the scenario where a mother has mental health issues where an MHO and others are considering detention in a hospital and the children’s social worker is considering a Child Protection Order application to protect the children. The outcomes of each of these processes of decision making can be quite profound on the child and parents. This has been illustrated in the recent Mental Welfare Commission Report on *Parents who are Detained*. The same issues arise when parents are remanded into or sentenced to custody.

The second scenario is that a Court or Hearing is considering the best interest of one child but does not take into account the best interest of siblings – for example their contact with each other or the right to live together as part of the same family.

SASW members are concerned about another group of vulnerable young people who are becoming increasingly marginalised and who could have been included in this Bill. They suggest that a “Right of refuge” for young runaways who ask for it would also be a welcome addition- This proposed change strengthens the 95 Act, by changing the power to provide refuge to young runaways that ask for it, into a duty to provide. Very few local authorities currently act on this power and provide refuge under section 38.

Finally, Family Group Conferences have an increasing body of research demonstrating success in achieving support for children and young people continuing to live within their families when difficulties arise. It is suggested that before any life changing decisions are made about a child that an FGC is put in place to explore thoroughly whether or not that child's needs can be met within their family.

Conclusion

SASW members have discussed this proposed legislation at great length and whilst welcoming some of the recommendations have also voiced concern that there have been some key issues that could have been included and see some missed opportunities. We hope that our observations are helpful to the Committee deliberations and we are available if we can be of further assistance

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