

**Cross Party Group on Children and Young People
Thursday 6 September 2012, 13.00-14.30
Committee Room 3, The Scottish Parliament**

Attendees

Marco Biagi MSP
Roderick Campbell MSP
Alison Johnstone MSP
Fiona McLeod MSP
Jeni Bainbridge, Children in Scotland
Alison Bennett, Church of Scotland Education Committee
Leah Benson, Circle
Jackie Brock, Children in Scotland
Sara Collier, Children in Scotland
Mig Coupe, Mindroom
Morag Driscoll, Scottish Child Law Centre
Orla Duncan, Sick Children's Hospital
Mairi Ferris, Fife Council
Barry Fisher, D of E Scotland
Tara Fisher, Article 12 in Scotland
Maurice Frank
David Gaughan, Ypeople
Emma Grindulis, Together
Juliet Harris, Together
Kate Higgins, Children 1st
Martin Hunt, Tartan Silk
Marguerite Hunter Blair, Play Scotland
Nico Juetten, SCCYP
Charlene Kelly, Relationships Scotland
Lesley Kelly, Centre for Research on Families and Relationships
Adam Lang, Youthlink Scotland
Euan Lloyd, Save the Children
Brandi Lee Lough Dennell, LGBT Youth Scotland
Robert MacBean, National Autistic Society
Margaret Macleod, Youthlink Scotland
Marion Macleod, Children in Scotland
Carrie Manning, The Prince's Trust
Elizabeth May, Action for Sick Children Scotland
Sharon McCluskie, Play Scotland
Cathy McCulloch, Children's Parliament
Ian McCulloch, In Train
Richard Meade, Barnardo's
Mandy Morrison, Quarriers

Andy Mount, West Lothian Youth Action Project
Muriel Mowat, Scottish Independent Advocacy Alliance
Paul Mullan, Quarriers
David Nicholson, National Autistic Society
Alison Reid, CI@n Childlaw
Helen Reilly, BMA Scotland
Lisa Ross, Mindroom
Kate Sanford, Quarriers
Devin Scobie, Caledonia Consulting
Carla Simpson, News Direct
Joanne Smith, NSPCC Scotland
Annie Taylor, Children 1st
Andrea Katalin Toth, Scottish Child Law Centre
Kay Tisdall, University of Edinburgh
Gregor Urquhart, Young Scot
Linda Whitmore, Enable
Megan Wilson, Working on Wheels/Smart Play Network

Apologies

Drew Smith MSP
Kim Atkinson, Scottish Sports Association
Salena Begley, Family Fund
May Chamberlain, Relationships Scotland
Rozanne Chorlton
Gerry Croall,
Kim Hartley, RCSLT
Louise Hill, CELCIS
Patricia Hutchison, CLIC Sargent
Richard Knott, Salvation Army
Nancy Loucks, Families Outside
Ann McInnes, Rathbone
Chris McNaught, CrossReach
Brian Magee, COSCA
Felicity Mehendale
Ages Mullen, Church of Scotland
Calum Munro, Highland Children's Forum
Keith Robson, ATL Scotland
Jan Savage, National Deaf Children's Society
Maggie Simpson, Scottish Childminding Association
Kim Smith, YMCA Scotland
Bob Stewart, Four Square
Paula Swanston, Home Link Family Support

13.20 Welcome

Marco Biagi MSP welcomed everyone to the first meeting of this Parliamentary session. He highlighted the productive debates had by the CPG in the last session and committed the group to continued productivity. The proposed Children and Young People Bill was introduced as the topic of the day's discussion: an issue that is still live and current, with the consultation open until 25th September.

Marco welcomed Nico Juetten from the office of Scotland's Commissioner for Children and Young People (SCCYP) to talk about the Rights aspect of the Bill, in particular, the proposed extension of the SCCYP duties.

13.25 Nico Juetten, SCCYP

Nico thanked the CPG for the invitation to discuss the proposed extension of powers. SCCYP welcomes the intentions and general tone of the proposals for legislation and the opportunity to engage with the children's sector as a whole as well as the Parliament in taking this Bill forward. However, SCCYP feel that the consultation document lacks detail – in terms of how the proposals will operate and look in practice – which, in turn, makes it difficult to comment to any great extent. It is not clear how Parts 1 and 2 of the consultation document relate to each other. SCCYP are aiming to have their draft response produced 1 week before the deadline and will issue a number of thematic briefings which will all be posted on their website.

Currently, SCCYP have investigatory powers with regards to the infringement of children's rights within certain limitations: the investigation must be of benefit to a group of children; their investigations cannot concern a reserved matter; they cannot cross over into the explicit remit of another body; and parents are explicitly excluded from the scope of the investigatory power. Under the proposed extensions of these powers, the limitation to issues affecting groups of children or children generally would be removed and SCCYP investigations could be carried out for individual children. The service provider would be required to respond formally and this response would be made public alongside the investigation report where appropriate. Currently, this proposal is still quite vague but SCCYP would welcome further comments, questions and critiques on the proposed changes from all members of the CPG and further afield.

Nico highlighted some of the issues surrounding the proposed extension to the SCCYP investigative powers which require consideration:

1. 'Redress' – there needs to be an accessible route to all levels of redress for children if there is an infringement of their rights. The proposed investigative powers could be a useful mechanism for furthering children's rights, but it cannot be a comprehensive answer to the need for redress.
2. SCCYP remains committed to incorporation of the UNCRC into Scottish law – which, among other things, would enable children to enforce their rights through the courts.
3. The role of the Commissioners office in helping a child – would this be the role of advocate, mediator, adjudicator, investigator? Thus far, this has been unclear and we need to consider what would bring the greatest advantage to children and young people and what people want to see.
4. Delineation from other complaints mechanisms – need to avoid duplication of effort and consider the remit of other bodies with investigative powers, such as EHRC and SPSO, without unduly restricting the scope of SCCYP's investigatory power.
5. Different levels of engagement and the issue of discretion – The proposal is to extend the power to investigate, not to introduce a duty to do so. How discretion is exercised will be important in terms of what issues get investigated by SCCYP. They will look to colleagues in Wales and Ireland for some guidance on these practical issues – could involve signposting to someone more appropriate to deal with, the issue. Where would this mechanism sit within the hierarchy of complaints procedure? Which of the details of this need to be in primary legislation? Or would SCCYP just build procedures and practice around this once investigative powers are granted?
6. Interaction of the power with other areas of the proposed legislation – does it matter if SCCYP have the ability to investigate that the subjects of the investigations have no legal duty in domestic law upon them to be UNCRC compliant? We may hear in formal responses that they are not duty bound to do this – what will be in place to make sure that service providers engage with SCCYP recommendations.
7. Resources – this is something that has been discussed with ministers and officials - they accept that there would be significant resources required by the Commissioners office beyond additional staff specialising in complaints handling and investigations– for example secure information systems and

storage, legal advice etc. They can't be put in a position where they are unable to exercise their other statutory duties.

SCCYP feel an important emerging concern about the CYP Bill generally is that it is not underpinned by children's rights. This was the original objective of unifying the Children's Rights and Children's Services Bill, but this is not currently reflected in the proposals.

13.35 Roundtable discussion

Rights

Kate Sanford, Quarriers, asked Nico if he had any feeling on what 'taking appropriate steps to further the rights of CYP' actually means? He replied that the consultation document is vague. It doesn't actually say that Minister's will have a duty to make decisions on the basis of what is best for children's rights. We'll be wiser once the Scottish Government respond to the responses.

Juliet Harris, Together – Children in Scotland and Together have formed a Working Group on rights in the proposed Bill, and a briefing paper will be available soon. This will contain more information on what people want the duty to look like and do. We need to make it about what we want it to look like.

Jackie Brock, Children in Scotland – It is important that we provide a compelling story as to why this can make society better for everyone. Bureaucratic issues should be raised on the back of the benefits of a rights perspective. We need real examples to support this and make the case, for example in the media and engagement with the public.

Andy Mount, West Lothian Youth Action Project – The new investigative powers of SCCYP need to be well understood by Children and Young People, many of whom who have an anti-authority attitude, to help them get a good deal. Parents may also struggle to understand SCCYP's role.

Nico said accessibility and approachability will be key for SCCYP – they want children and young people and others to fully understand the process and be able to engage with it. Concepts, wording and what rights mean are important in shaping how the whole story turns out. There is no dichotomy between presenting a compelling story and also

focussing on the legal technical detail – they are mutually beneficial – go hand in hand in securing a better Scotland for children.

Marco noted that the CPG perhaps reflects more of policy and practice than communication. It's important that we all talk about the overarching vision for Scotland.

Early Years/Childcare

Morag Driscoll, Scottish Child Law Centre – More flexibility is required – a flat requirement for more hours of Early Childcare and Education is not the best use of resources. Some children need more than others and some parents may not take up or even want extra hours. This is what they are hearing on their helpline.

Marion Macleod, Children in Scotland – Historically CiS has taken the line that targeting in this way is hard in practice. Take up is generally good and CiS supports extending hours. Most parents see the benefits for their child's learning and development. More narrowly targeting is difficult and unreliable.

Morag said there was an issue of public perception of the extension – for example a feeling that children with exceptional health needs losing out on support.

GIRFEC

Morag said there were serious concerns about every child having a named person. There are questions around the need to protect the child under data protection. Is the school the best place to have named person – they are not there 365 days a year. Where are the resources going to come from to train the named person? Children may want to have a choice about their named person.

Does every child in Scotland require a named person? Would we give every older person one? This blanket approach is worrying.

Kate Sanford agreed– some children are in and out of schools and the school is where their problems lie – should the school be their named person? What happens to the parent's role?

Juliet said that rights are being artificially separated from other issues

in the consultation document. Rights no longer unpin the approach, for example the GIRFEC section doesn't refer back to the UNCRC. It's important that we frame everything we say and recommend through a children's rights lens. Particularly the GIRFEC, wellbeing and SHANNARI section needs to refer back to rights.

Marco asked if a right to choose the named person could also connect to rights.

Nico agreed that the whole bill must be underpinned by rights. Using a children's rights impact assessment throughout other parts of the Bill could have highlighted difficulties. Named person could be the wrong person if there is not an element of choice for the child or young person. Information sharing is implied in the named person section – there is a right to be kept safe but also to privacy.

Andy Mount was concerned over the one size fits all approach – there may be other relevant adults in a child's life (football coach, youth worker etc) who could play a part if they had a good relationship with them.

Marion noted that the consultation doesn't go far enough in defining the role of the named person (although this would not appear in primary legislation). We need to know the expectations of a named person and consequential liability and responsibility. For under 5s the proposed named person is a Health Visitor – there is huge concern over this given the huge caseload of many HVs. Practical issues need to be thought through.

Brandi-Lee Lough Dennell, LGBT Youth Scotland – for those who leave school, how would the named person continue? What would happen?

Kay Tisdall, The University of Edinburgh – there is support for steering away from the terminology of 'children in need'. Coherence between two parts within consultation is a real issue – we need to give clear messages and capacity to deliver on children's rights agenda. This incoherence is quite strong.

Care/ Looked After Children

Morag said the right for Looked After Children to request support up to the age of 25 does not guarantee young people will receive it. There is no comprehensible standard for Local Authorities to work to in

supporting LAC, there is a real postcode lottery. What's in the consultation is currently too vague and won't improve anything in practice.

Kate echoed the concerns about the right to ask not being the right to receive. In practice it is unlikely to assist care leavers.

Andy said that there are so many holes and gaps in the system for supporting vulnerable Young People. We should be looking at this and trying to fill them.

Marco noted the Education Committee inquiry into the educational attainment of Looked After Children found that there are sometimes different record keeping systems and bodies struggling to access information. Voluntary organisations are often not part of the picture.

Morag said shared language is very important - this won't feature in the Bill but we're getting a flood of guidance and it would be good to have things together in one place to help people work better together. Not all legislation is working smoothly together – the Bill might be an opportunity to work some of this out and bring things together.

Linda Whitmore, Enable said that the parents they are in contact with are concerned about the lack of focus on children with disabilities and the lack of integration with other pieces of existing legislation, for example the ASL Act. They would welcome clarity on the role of the named person and the lead professional.

Martin Hunt from Tartan Silk – the HELIOS programme has created a guide to good practice which might be helpful.

Marguerite Hunter Blair, from Play Scotland, said they would be campaigning for a statutory duty for a right to play. Their concern is a lack of leverage with Local Authorities and in a recession, a hierarchy of need will form (play might miss out). The lack of meaningful engagement with COSLA is a worry. Want to ensure there is not a postcode lottery. It shouldn't come down to who has most meetings and who shouts loudest.

Marco said there was an issue with dialogue with COSLA as they may not want to come to table and leave with extra burdens.

Louise Morgan, Scottish Young Carer's Alliance – identifying need in the first instance is a worry, especially for young carers. They

may not have a parent around to advocate for them. She suspects that often a child would choose a voluntary sector worker to be their Named Person which would have implications for resources and training.

Action points and dates of next meeting

Robert MacBean, National Autistic Society suggested that a note of this meeting could be submitted as a formal response to the consultation from the CPG.

Sara Collier offered to circulate member's responses around the group if people send them to her.

The next meeting will be Thursday 4th October from 13.00-14.30. Chaired by Kezia Dugdale MSP the topic will be 'defining success for young people'.