

JUSTICE COMMITTEE

CHILDREN (SCOTLAND) BILL

SUBMISSION FROM CELCIS

Supplementary written evidence on seeking the views of young children to inform the Scottish Parliament's Justice Committee on the Children (Scotland) Bill

February 2020

The introduction of the Children (Scotland) Bill (the Bill) and the Family Justice Modernisation Strategy represent a significant opportunity to improve legislation and policy to uphold children's rights and secure their best interests, particularly in relation to issues of family law and children's important relationships. We welcomed the opportunity to provide written and oral evidence to the Justice Committee to inform scrutiny of the Bill at Stage 1.

During the oral evidence session on Tuesday 21 January 2020, the Justice Committee were particularly interested in how courts could take into account the views of young children. In this session, I highlighted the multi-method Mosaic Approach developed by Alison Clark and Peter Moss¹ and also work by Professor Priscilla Anderson seeking the views of babies in hospital settings as useful examples on how to seek the views of very young children. Further detail on seeking the views of young children has been requested and this short paper is written to assist the Committee.

The rights of young children to have a view

Scotland is a nation committed to embedding and advancing children's rights in all levels of society, and is demonstrated by the Scottish Government's objective to fully and directly incorporate the United Nations Convention of the Rights of the Child (UNCRC) into Scots law. A child's right to express their views freely in all matters affecting them is recognised as a general principle underpinning the UNCRC. Whilst a child's development, maturity and capacity should be taken into account alongside their views (in order to ensure that decisions are made in their best interests, and to avoid burden and undue responsibility being placed on children alone to make important decisions), the right to form and express a view exists for all children, without discrimination on the basis of age, or any other grounds.

The [Independent Care Review](#) has sought the views of over 2000 children and young people with care experience with a clear conclusion:

¹ Clark, A and Moss, P (2001), *Listening to young children: the Mosaic approach*. London: National Children's Bureau and Joseph Rowntree Foundation; Clark, A (2005), 'Ways of seeing: using the Mosaic approach to listen to young children's perspectives', in A Clark, A T Kjörholt, and P Moss (eds.), *Beyond Listening: children's perspectives on early childhood services*, Bristol: Policy Press.

*'The way Scotland listens to children, families and the workforce must look vastly different..... Scotland must recognise the particular challenges of listening to babies, infants and young children. Scotland must ensure that trusted adults that interpret their voices and behaviours do so with care and consideration.'*²

Furthermore, the work of the Children's Parliament on children's views on forms used for Sheriff Court found that although the process could be scary, 'if an adult just listens' that could make a huge difference and 'children should be allowed to share their thoughts and feelings in a way that is natural and familiar for them'.³

How to seek the views of young children

Considerable care and attention should be paid to ensure the views of babies and very young children, as well as children with special communication needs and disabilities, are heard. Courts and other settings where decisions are made must be appropriately equipped, and practitioners appropriately skilled, to facilitate views being heard in different ways that meet the needs of the individual child. Systems should be designed and established to provide children with mechanisms to be heard, in addition to making decisions which protect children where this is necessary.⁴ It is essential to recognise that in court processes dominated by adults, often an adversarial setting, the "voice" of the child is likely to be quiet and difficult to hear. There is a responsibility to ensure that young children are given the opportunity in a range of ways to share their views in a range of formats, although they are not obliged or forced to do so.

There are a range of approaches for engaging very young children to seek their views that merit consideration. Here are some examples:

- *Mosaic approach* - Developed with 3 and 4 year olds to seek their views. Underpinned by a strengths based approach of young children as competent, active, meaning makers and explorers of their own environments and builds on the work of [Reggio Emilia](#) early years education philosophy. Children's views are understood through observation, interview, tours, drawings, photography/book making, map mapping.
- *Talking Mats* –Used with disabled children to express views using a simple system of picture symbols, placed on a textured mat, that allow people to indicate their feelings about various options within a topic by placing the relevant image below a visual scale. Developed by speech and language therapists based in Stirling.
- *Play and Talk' method used with ten children aged between three and eight in [Permanently Progressing? Building secure futures for children in Scotland](#) research led by Dr Helen Whincup and Professor Nina Biehal investigated*

² Independent Care Review (2020) [The Promise](#), Glasgow: Independent Care Review (pg. 32).

³ Children's Parliament (2017) [If an adult just listens... Children's Parliament consultation on the views on the F9 Form used to gather children's views for the Sheriff Court](#), Edinburgh: Children's Parliament (pp.18).

⁴ Lehrmann, D. (2010) "Advancing Children's Rights to be Heard and Protected: The Model Representation of Children in Abuse, Neglect, and Custody Proceedings Act", *Behavioral Sciences and the Law*, vol 28, pp.463-479

*decision-making for permanency, including legal permanency, for 1836 young children in care.*⁵

- [Triangle consultancy](#) – *Open Doors guidance and skills in evidence for young children and disabled children*. Highly experienced practitioners' supporting young children to express views in private and public court proceedings underpinned by a children's rights ethos.

CELCIS
12 February 2020

⁵ Grant, M Whincup, H and Burgess, C (2019) [Permanently Progressing? Perspectives on kinship care, foster care and adoption: The voices of children, carers and adoptive parents](#), Stirling: University of Stirling.