



## **NSPCC CYMRU/WALES RESPONSE TO:**

### **CHILDREN AND ADOPTION ACT 2006 – FINANCIAL REGULATIONS FOR CONTACT ACTIVITY DIRECTIONS AND CONDITIONS**

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- 1.1 NSPCC Cymru/Wales welcomes the opportunity to respond to this consultation on the Children and Adoption Act 2006 – Financial Regulations for Contact Activity Directions and Conditions.
- 1.2 The NSPCC's purpose is to end cruelty to children. Our vision is of a society where all children are loved, valued and able to fulfil their potential.
- 1.3 We seek to achieve cultural, social and political change – influencing legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education.

## **2.0 General Comments**

- 2.1 NSPCC Cymru/Wales welcomes the opportunity to respond to this consultation. We believe that the child's welfare is paramount and is best promoted by a continuing relationship with both parents, as long as any safety issues are properly addressed.
- 2.2 We would like to take this opportunity to acknowledge the rights-based approach that the Welsh Assembly Government continues to base its policies and strategies upon. Despite the lack of a direct mention to the United Nations Convention on the Rights of the Child (UNCRC), and the commitment made by the Welsh Assembly Government and the UK through its ratification in 1991, we are encouraged by the continuous reference to the "best interests of the child" within the proposals and hope that this approach will also be reflected through final guidance and service delivery.
- 2.3 Family support is central to our mission to end cruelty to children. By intervening early and supporting families who are struggling to cope it is possible to address the root causes of problems that could result in later safeguarding and child protection concerns. Our response to this consultation draws on our experience of providing a range of support services to children, young people and their families across Wales.
- 2.4 NSPCC Cymru/Wales supports voluntary early intervention measures that support families before problems escalate. Parenting contracts are not voluntary measures because courts are required to take into account a parent's refusal to enter into, or failure to comply with, a parenting contract when considering an application for a parenting order. We consider that, where parenting contracts are used, families should receive the support they need to tackle the underlying causes. NSPCC Cymru/Wales welcomes the proposals which detail the types of contact activities that will be offered to parents in dispute. We agree that when families and the professionals working with them consider that a family would benefit from parenting or other family support as part of a parenting contract, there should be a requirement that this support is provided.
- 2.5 NSPCC Cymru/Wales' family support services include parenting classes, positive parenting programmes through outreach work and intensive one to one and group-based therapeutic work with families affected by abuse, trauma or maltreatment. We would like to take this opportunity to highlight our services in Wales who work directly with parents to provide advice, support and holistic family-based programmes to help them overcome the range of difficulties and experiences they have faced and to feel empowered to move on with their lives.
- 2.6 NSPCC Cymru/Wales provides a free, bilingual Helpline service based in Bangor, which is available to all who are concerned about the welfare of a child or young person or would like some advice and support. Parents form a significant percentage of the calls received by the Helpline, both highlighting concerns about other children and also seeking advice and support on how to deal with any issues they themselves are facing. From May 2007 to April 2008, 29% of callers to our Helpline were parents themselves and 68% of these calls were for advice. Just over 21% of calls for advice, from May 2007 to April 2008, proceeded to ask for guidance around contact issues, placing this as one of the main reasons for calling. This evidence clearly indicates that the Helpline provides a range of people, including parents, in Wales with an accessible source of support and advice when needed. When asked what they would have done had the Helpline service not been available, 33.5% indicated that they did not know.
- 2.7 The strong links between domestic abuse and child abuse have led NSPCC Cymru/Wales to set up a pioneering service that tackles the issue of violence in the home. NSPCC Cymru/Wales delivers domestic abuse work from two bases in Wales. The South Wales Domestic Violence Prevention Service works from a Cardiff base, providing a service to the surrounding area. The Butterflies, Right to be Safe, Domestic Abuse Programme is based in Prestatyn, North Wales and has delivered

services across North Wales. Both these bases offer services to children, young people and adults, both victims and those responsible for abusive behaviour.

- 2.8 Our North Wales Family Support Service, grown from our work with the Butterflies Programme detailed above, provides parenting support and intervention for parents and families with an aim to improve quality of life and ensure that children and young people are safeguarded. NSPCC Cymru/Wales would be happy to provide further information on any of our services if required.
- 2.9 Our practice experience also informed our response to the National Assembly for Wales' Children and Young People Committee's call for evidence around the Parenting Action Plan in June this year. We felt this was another opportunity to highlight again our range of issues. We detailed the fact that parenting and family support services are essential both to support parents in their parenting role and in order to prevent families reaching the point of breakdown and the children within them being put at risk of harm. All parents should have access to support when they need it and we would encourage a multi-agency approach to the proposals outlined here. The Welsh Assembly Government must ensure a consistent and joined up approach to its policies and strategies so that communication between Ministerial departments reflects itself in seamless and high quality support for children, young people and their families.
- 2.10 We would also like to highlight the need to engage with separating parents and their families as part of this consultation. NSPCC Cymru/Wales believes that encouraging their input as well as the wider family members, children and young people will help inform a more effective approach to this area of concern. We were disappointed not to have seen evidence of this included within the original proposals. Involving children and young people in decisions which may either directly or indirectly involve the child is a right, reflected in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). The Welsh Assembly Government must continue to work to improve the reality of rights for children and young people living in Wales.
- 2.11 Likewise, we believe that contact arrangements must always reflect the best interests of the child concerned and must include consultation with them directly. We are aware that concerns have been expressed by Government and non-government organisations that the voices of children in family court proceedings are still being sidelined by the noise of parental disputes<sup>1</sup>. NSPCC Cymru/Wales believes that the voice of the child must never be overshadowed by others, but raised in conjunction with all involved. Where parenting contact activities do not reflect the best interests of the child involved, mechanisms must be in place to safeguard those involved from future and/or further harm. Agencies working with the particular separating parents and child(ren) involved must adopt a child-centred approach and must always recognise the potential impact decisions made may have on their future wellbeing. We urge the Welsh Assembly Government to acknowledge this and take the appropriate steps to avoid failing in their efforts to deliver provision in the best interest of the child(ren).
- 2.12 Our response to this consultation will deal only with questions where we feel we have the practice experience and knowledge to do so. Please also note that some questions have been grouped together to provide an overall response. We would be happy to provide any further information and examples of practice experience as necessary.

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<sup>1</sup> NSPCC (2007) Your Shout too! A survey of the views of children and young people involved in court proceedings when their parents divorce or separate, NSPCC Publications, London.

### **3.0 Consultation Questions**

3.1 ***(Q1.) Do you agree that the Welsh Assembly Government (WAG) should subsidise the cost of contact activities directed or ordered by the courts for those on low incomes?***

3.2 NSPCC Cymru/Wales would agree that those on lower incomes may be further disadvantaged by orders or conditions placed by the courts in their duty as responsible parents. Therefore, financial subsidy may go some way to avoid this becoming an unnecessary barrier to improving contact arrangements between children, young people and their parents.

3.3 ***(Q2.) Do you consider the use of the legal aid model to identify those eligible for full financial subsidy appropriate?***

3.4 NSPCC Cymru/Wales' service experience has informed our belief that the legal aid model is currently the simplest way of providing financial subsidy for families who are separating. However, we are concerned that many parents and carers do not understand how to access the legal aid system and are therefore discouraged by the bureaucracy involved. We have reason to believe that parents and carers consider the term "legal aid" itself a punitive system that is not accessible to all. In addition to this, many lone parents, often women, may not have the skills needed to access the type of forms that need to be completed by a model that is designed to look at means-testing. We would urge the Welsh Assembly Government to consider such practical issues and provide the appropriate clarity and support to those who are eligible.

3.5 ***(Q3.) Do you consider capping the maximum amount of financial assistance at £1,000 per person per contact activity appropriate?***

***(Q3a.) If not please provide information and evidence for a maximum level of subsidy that would be more appropriate.***

3.6 NSPCC Cymru/Wales capping the maximum amount of assistance to the above amount may go some way in financially assisting parents who are having to go through family court proceedings to determine contact arrangements.

3.7 However, we would urge the Welsh Assembly Government to consider a few issues. We question how far the proposals will help avoid the limitations to the frequency of contact activities and help meet the needs of families where arrangements carry tight and therefore heavy timescales. We are seeking an understanding on the particular implications of the financial subsidy and urge the Welsh Assembly Government through this guidance to clarify how these potential issues will be resolved.

3.8 Our practice experience of providing family support services throughout Wales informs us that the issue of rurality must also be considered here. We are seeking clarification as to whether the proposals will consider the particular difficulties faced by parents living in more rural areas where transport infrastructure can be poor and potentially more expensive. This could therefore become a barrier to meeting contact arrangements and must be addressed appropriately. We would also like to highlight situations where Welsh children are taken to other parts of the UK or even abroad to live whilst one parent remains in Wales. Clarification must be given as to whether the financial subsidy detailed within the proposals will be enough to confidently meet such eventualities.

3.9 We would also like clarity around childcare. We understand that many parents in such situations across Wales find it difficult to maintain contact arrangements for this particular reason. Will parents and carers be able to use the financial subsidy detailed to provide childcare for siblings not covered by the contact orders where the

resident parent may be needed to make the visit with their child? We would urge the Welsh Assembly Government to consider these issues and report back as necessary.

- 3.10 ***(Q4.) Do you agree that a sliding scale of financial subsidy should be available for those who may face financial hardship if required to pay full costs for contact activities directed or ordered by the courts?***
- 3.11 NSPCC Cymru/Wales agrees in principle with this proposal. We believe that a sliding scale of financial subsidy may help those who are not eligible for legal aid meet the cost of contact arrangements set by the courts. This may go some way to prevent some families falling through the net.
- 3.12 However, we would like some clarification as to why the proposals detail that delivery responsibility will fall on service providers and not commissioners. We would urge the Welsh Assembly Government to provide the reasons behind this and to consider and report back on whether CAF/CASS Cymru as the initial commissioner of contact activities throughout Wales, and its requirement to “establish and manage appropriate financial arrangements that provide for reimbursement of providers where contact activity arrangements attract financial subsidy” (page 8) should take lead here and inform providers of the correct financial subsidy each individual has been awarded.
- 3.13 ***(Q5.) Do you consider the thresholds of financial support provided by the sliding scale (contained in Annex 4) fair, reasonable and equitable?***
- (Q5a.) In considering “gross income” how should this be calculated? Should certain payments be disregarded? Should resources of another person (such as their new partner) be taken into account?***
- (Q5b.) What documents should be provided to verify proof of income?***
- (Q6.) Do you agree to the proposed categories that will be eligible to financial subsidy?***
- (Q6a.) Are there any other groups who should be eligible to financial subsidy?***
- 3.14 NSPCC Cymru/Wales feels there is a need to readdress the threshold of financial support via the proposed sliding scale. We understand that there is a commitment to detail arrangements between CAF/CASS Cymru and service providers on the framework to support the application of the partial financial subsidy. However, we would like some particular clarification on a few issues we believe need addressing.
- 3.15 Our first issue is that of income. We have taken the gross income scale detailed at Annex 4 to reflect the individuals’ financial circumstances over a ‘joint’ view. We are concerned that the amount of financial contribution expected by those with a gross income of up to £20,000 will place considerable pressure on the individuals involved. We ask the Welsh Assembly Government to detail the source of such thresholds and to consider again the financial sensitivities involved.
- 3.16 Another issue, relating to the above, is that we feel there is a considerable jump between each gross income threshold. The income gap between £40,000 and £70,000 is considerable yet the cost would be the same for individuals at either end of the scale. This particular threshold does not appear to be very equitable. We believe further thresholds, in bands on £10,000, with corresponding and appropriate costs, may be more suitable. Again, we would like to understand the basis on which this particular sliding scale has been developed and would urge the Welsh Assembly Government to address our concerns.

- 3.17 Another issue we would like to highlight here is the confusion over whether the maximum contribution relates to one or more contact activity. We would be concerned that where contact arrangements include more than one activity, individuals on lower incomes or in more vulnerable circumstances may be unable to meet such costs. This could potentially lead to an escalation of difficulties and further requirements being placed by the courts where arrangements have been unmet. We would urge the Welsh Assembly Government to make clear their proposals here and to consider and address sensitively such issues.
- 3.18 In relation to the above issue, we are concerned that there appears to be a lack of clarity around payment methods. Many parents in Wales may struggle with lump sum payments and regular re-payments could better suit their circumstances. There is also the issue of interest charged if payments are not made, to be clarified. We urge the Welsh Assembly Government to ensure that through the proposed "framework to support the application of the partial financial subsidy" (page 7), that the practical details of payment arrangement are made clear.
- 3.19 Again, we would like to highlight here the importance of taking a child-centred approach. Realistic arrangements for the financial subsidy of contact activity costs must be established which do not disadvantage the child involved in the proceedings. In 2006/2007, ChildLine, a service provided by the NSPCC received over 20,000 calls from children and young people regarding family relationship problems, representing 12% of all calls. Children and young people who called ChildLine about conflict in their family often talked about their parents' separation or divorce, the emotional turmoil that one or both parents were suffering as a result, and the impact that the break-up had had on them and on other members of the family. In order to avoid further impacts on family members, and particularly the child or young person involved, the Welsh Assembly Government must ensure all the necessary arrangements are in place.
- 3.20 ***(Q7.) Is it reasonable that subsidised contact activities should be limited to those providers that have been approved by CAF/CASS CYMRU?***
- (Q7a.) If not, please outline how best contact activities can be quality assured and approved to meet the powers coming into force in Autumn 2008.***
- 3.21 NSPCC Cymru/Wales would urge the Welsh Assembly Government to clarify what approval by CAF/CASS Cymru would include for potential service providers. We feel that the current lack of clarification makes it impossible to consider whether such a requirement is reasonable or not.
- 3.22 In relation to Question 7a, we would like the Welsh Assembly Government to detail how they will monitor that not only CAF/CASS Cymru are placing the safety and best interest of the child at the forefront of planned contact arrangements, but also those who are providing services not officially approved by CAF/CASS Cymru (if this is included in final guidance).
- 3.23 We urge the Welsh Assembly Government to take a safeguarding role here and ensure that all contact activity arrangements place the welfare and safety of the child first. It is also essential that each child's needs are assessed individually rather than making general arrangements that do not accommodate the particular circumstances of a particular child and family. Again, the Welsh Assembly Government must also ensure that lines of communication and accountability are in place to ensure this is monitored.
- 3.24 ***(Q8.) Is the Welsh Assembly Government, through CAF/CASS Cymru, the most appropriate body to continue commissioning services for***

**contact activities?**

**(Q8a.) What other bodies could effectively undertake the commissioning and monitoring roles?**

**(Q8b.) Would local authorities, in respect of their broader responsibilities for children in need, be better placed to undertake this function?**

**(Q8c.) Does it make sense to include contact activities alongside wider services within Children and Young People's Plans?**

**(Q8d.) What are the practicalities and / or consequences of placing duties on local authorities to ensure access to contact activities as part of discharging their functions in relation to children and young people, particularly those in need?**

**(Q8e.) What arrangements and timescales would be required to put in place effective transitional arrangements to enable such a transition to take place?**

- 3.25 NSPCC Cymru/Wales believes there is a clear role for independent advocacy within the proposals. We would urge the Welsh Assembly Government to clarify how they expect an independent body to be both the commissioner of contact service providers and advocates on behalf of the children and young people involved in contact arrangement disputes. We question whether this may potentially lead to a conflict of interest and that children and young people may feel their voice and concerns are not being heard as a result.
- 3.26 From research conducted by the NSPCC in 2007, we now understand that for the majority of children in private law disputes about their residence and contact, who are not parties to the proceedings and usually have no involvement in court hearings, the traditional emphasis has been on achieving an agreement between the adult parties. Children are thus dependent on their parents to consider and protect their interests, a position based on two assumptions, which might be unrealistic or indeed potentially dangerous:
- provided the separating parents agree, the arrangements will always be in the best interests of the child;
  - parents will act reasonably and always in the best interests of their children at times of maximum stress and family disruption<sup>2</sup>.
- We understand the important role of advocacy that CAF/CASS Cymru help ensure when children are involved in family court proceedings. However, we are concerned that this additional requirement to commission contact arrangements may jeopardise their position. We would urge the Welsh Assembly Government to particularly consider this issue and to ensure that the role of independent advocacy for children and young people continues to be highlighted and provided.
- 3.27 NSPCC Cymru/Wales provides independent advocacy for children and young people, particularly those looked after by local authorities, across Wales. The service ensures that children and young people have a voice in decisions which affect their lives and access to independent advice and information to promote their welfare. We believe there may be a clear role for specific advocates for these children and are willing to discuss this further with the Welsh Assembly Government and CAF/CASS Cymru as necessary.

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<sup>2</sup> Ibid: 4

- 3.28 We believe that placing the role of commissioning contact activities onto Local Authorities may be an option. However, we urge the Welsh Assembly Government to consider all available opportunities and match such responsibility with sufficient resources. Any decisions made must ensure that capacity issues are addressed and that due weight is given to this agenda.
- 3.29 NSPCC research findings indicate that the availability of support services for children and their families has a significant contribution to make to the continuing emotional wellbeing of children who have been the subject of court proceedings<sup>3</sup>. Based on our research and the number of calls to ChildLine, it seems clear that most children going through the separation of their parents, experience this as a crisis. This could potentially make them more vulnerable to a range of social, emotional, psychological, educational and financial difficulties at the time and in the short-term<sup>4</sup>. Every effort must be made to ensure that arrangements are needs-led and offer flexibility to adapt to the changing needs of the child and their family members. The Welsh Assembly Government, alongside all other agencies involved with the child have a role to play in the upkeep of their safety and welfare.
- 3.30 We acknowledge the Welsh Assembly Government's reference to the need to offer and provide "support facilities or services for partners and children and a relapse service post-programme completion" (page 10) as we believe that such support should not be one-off provision. Parents need access to the appropriate services so that they feel fully supported and empowered to deal with parenting issues. This should also include appropriate provision to allow children of separating parents access to support at the time and there after to reduce the potential damaging effects this could have. One of the key themes to emerge from NSPCC research (2007) was that "the availability of support services for children and their families has a significant contribution to make to the continuing emotional wellbeing of children who have been the subject of court proceedings"<sup>5</sup>. We urge the Welsh Assembly Government to ensure that continuous appropriate resources are in place to allow for this need.
- 3.31 Again, we would like to highlight the need to maintain a child-centred approach to the commissioning and provision of contact arrangements. The child's welfare and safety is paramount and any commissioning responsibility, transitional arrangements and contact activity determined must reflect this. The Welsh Assembly Government, holding overall responsibility for this must ensure this approach is continually taken. Protocols, lines of communication, transparency and the continual awareness of the potential impacts on the child involved must be put in place and adhered to.

#### **4.0 Conclusion**

- 4.1 NSPCC Cymru/Wales is grateful for the opportunity to respond to this consultation. We would be willing to meet with or provide any further information about the issues highlighted within this response as necessary.

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<sup>3</sup> Ibid:8

<sup>4</sup> Ibid:3

<sup>5</sup> Ibid: 8.