

NSPCC Scotland response to the Consultation on Draft Statutory Guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014

Introduction

- 1.1 NSPCC Scotland welcomes the opportunity to comment on the draft statutory guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014. We broadly support the aims of this part of the Act and believe that proposed measures represent a step forward in the development of corporate parenting in Scotland.
- 1.2 The enduring negative consequences of early adversity experienced by far too many looked after children requires a presumption towards early intervention and prevention in all children's services planning and delivery.
- 1.3 Therefore statutory guidance for Part 9 (Corporate Parenting) must be much more explicitly linked with guidance for Part 12 (Services for children at risk of becoming looked after) and underpinned by duties set out in Part 1 (Children's Rights), Part 3 (Children's Service Planning), Parts 4 (Provisions of Named Person) Part 5 (Child's Plan) and Part 6 (Early Learning and Child Care) so that the statutory preventative duty introduced in the Act is known, understood and fully adopted by all corporate parents.

About NSPCC Scotland

- 2.1 The NSPCC aims to end cruelty to children. Our vision is of a society where all children are loved, valued and able to fulfil their potential. We are working with partners to introduce new child protection services to help some of the most vulnerable and at-risk children in Scotland. We are testing the very best intervention models from around the world, alongside our universal services such as ChildLine¹, and the NSPCC Helpline. Based on the learning from all our services we seek to achieve cultural, social and political change – influencing legislation, policy, practice, attitudes and behaviours so that all children in Scotland have the best protection from cruelty.

¹ Until March 2012, ChildLine in Scotland will be delivered by Children 1st, on behalf of the NSPCC.

NSPCC Scotland response

- 3.1 Policy developments over the past decade have concentrated on the need to improve support for care leavers, *Scotland More Choices, More Chances* (Scottish Executive, 2006), *Looked After Children and Young People: We Can and Must Do Better* (Scottish Executive, 2007) and *These are Our Bairns: a Guide for Community Planning Partnerships on being a good corporate parent* (Scottish Government, 2008).
- 3.2 However we believe that equal attention should be paid to looked after children's early care experiences. The poorer outcomes of looked after children can be linked back to a lack of early intervention, where risk-factors and negative experiences in the early years were not sufficiently identified or addressed. In particular, we believe that the difficulties faced by looked after children should be tackled by recognising attachment difficulties and providing preventative interventions to support better attachment.

Prevention and early intervention

- 4.1 While the Christie Commission is cited as setting the context for the Children and Young People (Scotland) Act 2014, and Paragraph 114 of Section 61, *Reports by Corporate Parents*, identifies the importance of linking this guidance with guidance for other parts of the Act, the guidance gives insufficient direction on how Part 9 will interface with duties in other parts of the Act.
- 4.2 A specific statement is required to make clear that many public authorities will be corporate parents and that these duties do not sit independently from each other. Similarly, many bodies will have duties under Parts 4 and 5 of the Act, with respect to information sharing and interaction with the Named Person, which should also be clarified in this guidance.
- 4.3 We believe the preventative duty set out in Part 3 of the Act, for all children's services plans to include a preventative element, can facilitate the necessary shift towards primary prevention.
- 4.4 Evidence has shown that looked after children are likely to have more insecure and disorganised patterns of attachments². This may stem from their experiences before entering the looked after system, or from their experience within the care system, such as the upheaval of multiple placements.
- 4.5 Section 59 (96)"corporate parents should make particular effort to tailor their activities to younger children (0-1).....traditionally, this group have not enjoyed the same benefits from corporate parenting as other." Key to this is the need for quicker and better decisions to be made about permanence once a child enters the looked after system.

² Hughes, D.A. (2004). *Facilitating Developmental Attachment: The Road To Emotional Recovery and Behavioural Change in foster and Adopted Children*. London, Rowman & Littlefield

- 4.6 Improving the quality, timeliness and consistency of decision-making about permanency is a critical issue. The guidance should make explicit the presumption towards prevention and early intervention. Specifically, that all corporate parents have a specific duty to consider the needs of 0-3 year old children for speedy and safe permanency planning and stable foster care or adoption.
- 4.7 The literature indicated that adoption should be a preferred permanency aspiration for many 0-3 year olds. Carers who see themselves as having a long term commitment to a child from the outset interact differently with that child and that in itself promotes attachment i.e. babies experience the relationship differently when carers are committed to them³. Commitment of a carer predicts how a child thinks about themselves and others. There is evidence of better outcomes for early adopted children from a range of studies, legal advantage of being an adopted child, e.g. inheritance rights etc.⁴ Adoption should therefore be a permanence aspiration for all corporate parents where appropriate.
- 4.8 Preventative measures introduced in Part 12 to support vulnerable expectant and new parents and carers is a significant step forward and creates a strong statutory basis for practical, prevention-oriented policies and practice with the potential to enhance the earliest months and years of childhood. We believe duties in Part 12 must run as a golden thread through all corporate parent service planning and decision making, not to do so will lead (over time) to the earliest years receiving lower priority and less support than other areas.

Answers to specific questions

1) Do you agree that the guidance provides clarity about what corporate parenting is and how corporate parents are supposed to carry out their duties

- 5.1 The draft guidance as a whole is clear, coherent and well drafted.
- 5.2 Although the guidance makes it clear that corporate parents should not be restricted by resources and “should develop solutions to resource constraints”. Hill (2011) reports several Scottish studies ‘pointing to limitations in resources affecting decisions and the quality of interventions for looked after children’. This wider financial and organisational context should be considered in guidance to better inform decision making at a local level.
- 5.3 It would also be helpful for the Scottish Government to clarify how it intends to prevent wide inequities in service provision between corporate parents in different local authorities.
- 5.4 The guidance should indicate ways in which corporate parents can identify whether children and young people are looked after or care leavers. Section 61 on Reports by

³ Dozier and Lindhiem 2009.

⁴ Lindhiem and Dozier 2007

Corporate Parents, paragraph 112, states that corporate parenting reports should not only be narrative descriptions of activity but “should be based on data and analysis”.

- 5.5 Early adversity combined with negative care experiences can lead to young people leaving formal care settings and/or disengaging with services as soon as they are able⁵. Poor data collection on destinations for looked after children means that they can be ‘invisible’ to services and they may be reluctant to seek help. Therefore, the robust data collection and reporting frameworks will not be translated into the realisation of rights and improved outcomes for looked after children unless corporate parents proactively engage with care leavers to identify need.
- 5.6 More detail is required setting out how corporate parents can identify whether children and young people are looked after or care leavers. This becomes particularly complex if children move between local authorities or have had a number of different placements.

2) Do you agree with the definition of corporate parenting?

- 6.1 The role of corporate parents has previously been described as “ill-defined and often misunderstood”⁶ We welcome the definition set out in paragraph 21 of the draft guidance and believe it provides clarity around the duties and obligations contained within the role. We also welcome the development of a statutory definition for the first time in Scotland.
- 6.2 NSPCC supports the recommendations of SCCYP to include “rights” in addition to “wellbeing” so that the definition reads: “An organisation’s performance of actions necessary to promote and support the rights and wellbeing of a looked after child or care leaver...” This will ensure that corporate parents are clear that the duties in Part 1 do not sit independently from the duties in Part 9, and other relevant parts of the Act.

3) Is the guidance clear about how different corporate parents in view of their other functions should assess the wellbeing of looked after children and care leavers?

4) are there sections of the guidance that need to be expanded?

Barriers to participation

(e) Actions to help eligible children and young people access opportunities and make use of services

⁵ Stein, M (2008) ‘Resilience and Young People Leaving Care’, in *Child Care In Practice*, 14: 35–44, Routledge

⁶ Scottish Government, *Looked after children and young people: we can and must do better* 2007. Edinburgh

- 7.1 Even where opportunities are made available by corporate parents, the consequences of adverse early experiences can create significant barriers to participation. Considerable emotional barriers such as unresolved trauma, fear of failure, loss and rejection, and problems relating to drugs and alcohol misuse can make it difficult to engage in opportunities or take up services.
- 7.2 Preventing harm from occurring in the first place through early decision making around permanence would help mitigate some of these difficulties, however we recognise adversity can occur at any age and stage. Therefore we would like to see specific direction in guidance setting out ways in which corporate parents can eliminate barriers to participation through a wider assessment of need, and by providing meaningful therapeutic support to address barriers to engagement.
- 7.3 “Senior corporate management will be held accountable for an organisation performance in respect to corporate parenting”. With regard to planning and reporting (Sections 59 and 61), more detail on the process of scrutiny is required.
- 7.4 Paragraph 51 of the section on *local and national: application of Part 9* should be clear that (a) the local authority in the place a care leaver has moved to should provide *at least* the same standard of service as they would have received if they had remained in the care of the placing home local authority; (b) whether or not it is optional for corporate parents to enter into agreements with the receiving local authority and health board about the provision of services or support, as the paragraph seems to suggest, and what happens with respect to these services if an agreement is not in place.
- 7.5 Paragraph 131 of the section on *Outcomes from Corporate Parenting* should emphasize the importance of high quality, sufficiently resourced services with a bias towards primary prevention.

5) Any other comments

Promoting rights

8. It is not clear from the guidance how eligible children will be made aware of the services, support and opportunities available from corporate parents? Recent research from Who Cares? Scotland found that 47% of young people asked were still unaware of what a corporate parent is and, crucially, found that the younger the respondent the less likely they were to have knowledge of corporate parenting.⁷

Children looked after at home

9. The guidance should make specific reference to the unique needs and rights of children who are looked after and accommodated at home.

⁷ Who Cares? Scotland, Care Experienced Young People's Views Interpreting the Children and Young People Act 2014, November 2014

Conclusion

- 10.1 Care leavers in Scotland are disproportionately represented in the ranks of the homeless, those in prison, those with mental illness or poor mental and physical health, those without qualifications, the unemployed and those with a low life expectancy.
- 10.2 The majority of children who offend frequently were first referred to hearings as much younger children, usually between the ages of five and nine, because they needed care and protection.
- 10.3 The Children and Young People (Scotland) Act 2014 provides the legislative framework to encourage preventative measures rather than the crisis response that has disadvantaged too many children in Scotland for too long.
- 10.4 This guidance clearly sets out the duties of a corporate parent but much more information is required setting out how duties in Part 9 will interface with other parts of the Act.
- 10.5 We would like to see explicit links to Part 3 (Children's Services Planning) and Part 12 (Services for children at risk of becoming looked after) to prioritise the specific needs of 0-3 year old children for speedy and safe permanency planning and stable foster care or adoption. This would help to provide a more stable foundation for children and young people, which may go some way to improving their outcomes more generally.

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