

Education, Children and Families Committee

10am, Tuesday, 20 May 2014

Children and Young People (Scotland) Act 2014

Item number	7.6
Report number	
Executive/routine	
Wards	All

Executive summary

The Children and Young People Bill became law on 19th March, 2014. It is one of the most significant pieces of legislation affecting children, young people and their families since the Children (Scotland) Act 1995. The aims of the legislation are to:

- help the Scottish Government achieve its ambition to make Scotland “the best place in the world to grow up” (Scottish Government, 2012);
- strengthen children and young people’s rights, as described in the United Nations Convention on the Rights of the Child (UNCRC);
- improve and expand the services that support and protect children and families, including looked after children.

The legislation should enable positive changes for children and young people in Scotland including improving joint working and sharing of information amongst professionals, as well as some considerable improvements for care leavers. The impact will be determined to a large extent by secondary legislation and guidance. There remain concerns about resourcing of some elements of the legislation and these were expressed by the Parliament’s Finance Committee.

Council officers will continue to work with colleagues a local and national level on key issues that were raised during the drafting and passing of the Bill to support the development of the regulations and guidance that will follow.

Links

Coalition pledges

Council outcomes

Single Outcome Agreement [SO2](#), [SO3](#)

Children and Young People (Scotland) Act 2014

Recommendations

- 1.1 The Committee notes the wide range of measures and potential impact of the Act.
- 1.2 A further report be brought to the Committee in 18 months setting out progress on implementation of the legislation in Edinburgh.

Background

- 2.1 The Children and Young People (Scotland) Act 2014 places children and young people at the heart of planning and services and aims to ensure that their rights are respected across the public sector. The Act has major provisions relating to children's rights, the planning and promotion of preventative services, early years and childcare and the most significant legislation for looked after children since 1995. Although most of the provisions will commence from April 2015, the provision for 600 hours of early learning and childcare comes into force this year. There are a number of areas where the impact of the legislation will be determined by forthcoming regulation and guidance.

Main report

Purpose

- 3.1 The policy memorandum described the objective of the Bill as “making Scotland the best place for children to grow up” by “putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the sector”.
- 3.2 The main provisions:
 - 3.2.1 give recognition of the UN Convention on the Rights of the Child (UNCRC) in domestic legislation;
 - 3.2.2 extend the investigatory powers of the Children's Commissioner;
 - 3.2.3 provide a statutory basis for Getting it Right for Every Child (including provision for a 'Named Person' for everyone under 18 and a child's plan for those who need targeted interventions);
 - 3.2.4 aim to improve children's services planning including joint planning between health boards and local authorities;

- 3.2.5 extend provision for early learning and childcare;
- 3.2.6 extend support for kinship carers and care leavers;
- 3.2.7 create a statutory definition of corporate parenting and provide 'relevant' services for families;
- 3.2.8 create a statutory adoption register and amend the process for establishing local support structures for the Children's Hearings system;
- 3.2.9 make changes to the procedures for school closures (added at Stage 2).

Provisions

Rights of children and young people

- 3.3 To ensure that children's rights properly influence the design and delivery of policies and services the Act places a duty on the Scottish Ministers to keep under consideration and take steps to further the rights of children and young people, to promote and raise awareness and understanding of the United Nations Convention on the Rights of the Child (UNCRC). There is now a duty on public authorities (for example local authorities, health services and the police) to create reports every three years which explain what they are doing to encourage and support children's rights as set out in the UNCRC. Part 2 of the Act extends the powers of Scotland's Commissioner for Children and Young People, so that this office will be able to undertake investigations in relation to individual children and young people.

Children's Services Planning

- 3.4 Local authorities already have an obligation under The Children (Scotland) Act 1995, to produce Children's Service Plans. The provisions in Part 3 of the new Act replace the provisions in the 1995 Act. There is now a new duty that requires public services to work together to design, plan and deliver services for children and families.
- 3.5 The plans should demonstrate what public authorities are doing to ensure that services are integrated for service users, they make the best use of resources and are meeting their aims to safeguard, support and promote wellbeing, early intervention and prevention. The plans will focus on how well children in the Edinburgh are doing, based on the description of wellbeing that will be issued in guidance accompanying the Act.
- 3.6 There should be consultation on the plans with service users and providers, including social landlords. Where there are disagreements among local partners, they should publish details. Ministers can "call in" plans and request changes if necessary.

Getting it Right for Every Child

- 3.7 To improve the way services work to support children, young people and families, the Act ensures that all children and young people from birth to 18 years have access to a named person (usually a health visitor or head/senior teacher) available as a single point of contact. The Act puts in place a planning process to support children who require enhanced levels of support and places duties on public bodies

to coordinate the planning, design and delivery of services for children and young people with a focus on improving outcomes.

- 3.8 The purpose of the named person is to act as a single point of contact for children, young people and families to provide advice, information and support and to help deal with child protection concerns more effectively by having a duty to share information “likely to be relevant”. The named person will change as a child gets older. For example, from birth to school a health visitor may be the named person, and when they start school it will usually be the head teacher. Under the Act, legal responsibility does not lie with the individual named person, but with the service provider e.g. the local authority or NHS Board. In response to some concerns expressed during the passage of the Bill the Act now includes a new complaints procedure for parents if they are unhappy with aspects of the named person service.
- 3.9 The Act puts into law the established GIRFEC (Getting it Right for Every Child) to planning to meet the needs of individual children. If a child has enhanced levels of need a multi agency child’s plan can be prepared to meet whatever needs have been identified. The plan would be coordinated by a lead professional, usually but not always a social worker. Plans must be kept under review to ensure that needs are being met. There is a new complaints procedure for parents if they are unhappy with the service they have received.

Early learning and childcare

- 3.10 Part 6 of the Act focuses on increasing the number of hours of early learning and childcare that three and four-year-olds, and some two-year-olds, are entitled to. Details of how this will be implemented are expected in the forthcoming guidance and regulations from Scottish Government.
- 3.11 The following groups will be entitled to 600 hours of early learning and childcare:
- 3.11.1 all three and four-year-olds (previously entitled to 475 hours);
 - 3.11.2 looked-after two-year-old children or those subject to kinship care orders;
 - 3.11.3 two-year-olds in families seeking work (from 2014);
 - 3.11.4 two-year-old children who are entitled to free school meals (from 2015).
- 3.12 The Act specifies the provision for looked after 2-year-olds: all the other changes will be put into law via regulations. To strengthen the role of early years support in children’s and families’ lives, the Act makes provision for an increase in the amount and flexibility of free early learning and childcare from 475 hours a year to a minimum of 600 hours for 3 and 4 year olds, and 2 year olds who are, or have been at any time since turning 2, looked after or subject to a kinship care order or are living in a workless household.
- 3.13 Local authorities also have a duty to consult with local people, and publish plans, about whether and if so how they should provide school education for pre-school children (early learning and childcare) and day care and out-of-school care

- 3.14 It must be education and care of a kind that supports learning and development in a caring and nurturing setting.
- 3.15 In line with other local authorities Edinburgh will implement a model of 3 hours and 10 minute sessions delivered over 38 weeks from August 2014.
- 3.16 The Act sets out an intention to deliver early learning and childcare in a variety of ways to meet the needs of parents and carers taking account of patterns of employment. The Bill does specify that the entitlement should be over 38 weeks and in sessions no longer than 8 hours.
- 3.17 The Scottish Government has made revenue funding available to support the implementation of the early years provisions. The sum announced to date for Edinburgh in 2014-15 is £4.23m increasing annually to enable Local authorities to deliver more flexible models. Capital funding of £2.51m has also been made available for 2014-15 with further allocations due in 2015/16 and 2016/17. Further revenue and capital allocations will be made to support 2 year olds from workless families and those entitled to free school meals but allocations to individual local authorities have yet to be announced.

Children and Young People who are Looked After

- 3.18 The Act contains significant provisions for looked after children and young people and those leaving care. There are significant new duties in relation to corporate parenting. The Act lists all organisations that are corporate parents and provides direction to make sure they are clear about their duties.
- 3.19 Corporate Parents have a duty to:
- 3.19.1 assess children and young people's needs for services and support;
 - 3.19.2 promote their interests;
 - 3.19.3 provide opportunities to participate;
 - 3.19.4 plan, collaborate and report on how they propose to exercise their legal responsibilities as corporate parents.
- 3.20 The City of Edinburgh has an established elected member - led Corporate Parenting board and a well developed Action Plan. The Council and its partners are therefore well placed to use the opportunities provided by the new duties to further enhance the quality of care and improve outcomes for Looked After children.
- 3.21 In addition under the Act care leavers can ask their local authority for help up until the age of 26 and local authorities have a new responsibility to provide continuing care for looked-after 16-year-olds. For example, young care leavers are able to return to care up to the age of 21. The logic behind both of these provisions is that parental support in birth families extends well beyond 16 or 18 and Scotland's care system should reflect this for young people who do not have support from families of their own. There remain however, a number of questions about how this will work in practice and whether there will be sufficient resources and capacity in the system.

3.22 The Act provides for additional support to be given to kinship carers in relation to their parenting role through the kinship care order and provides families in distress with access to appropriate family counselling and relevant services. Parts 12 and 13 focus on improving services for children who are at risk of becoming looked-after or going into kinship care (cared for by relatives or friends who have agreed to look after a child full-time). Local authorities will have a duty to provide services, including information and counselling, to these children. The Act defines Kinship Care Orders and Scottish Ministers can specify (by Regulation) what types of assistance can be made available through such Orders. The Act specifies that assistance may include counselling, advice and information on any matter; financial support and any local authority service provided on a subsidised basis.

Other measures

- 3.23 Parts 14 to 18 of the Act contain a range of important measures. These sections
- 3.23.1 place the use of a Scotland-wide Adoption Register on a statutory footing to help adoption of vulnerable children and give Ministers powers to set out what it should contain. There are safeguards on, for example, disclosure of information;
 - 3.23.2 clarify criteria for school closures, including rural schools, consultation requirements and school closure review panels;
 - 3.23.3 provide clarity on technical aspects of the Children's Hearings System and establish area support teams, including local authority admin and support;
 - 3.23.4 clarify the appeals process for detaining children in secure accommodation;
 - 3.23.5 modify the circumstances under which children's legal aid can be made available;
 - 3.23.6 provide legal authority for extending free school meals to all P1 to P3 pupils;
 - 3.23.7 provides definitions of how wellbeing should be assessed including what are known as SHANARRI measures: Safe; Healthy; Achieving; Nurtured; Active; Respected; Responsible and Included.
- 3.24 Some of these changes were introduced at Stage 2 of the legislation.

Measures of success

- 4.1 The Council and partner agencies meet new legislative requirements including those set out in forthcoming Regulation and guidance.
- 4.2 Partnership working and information sharing is enhanced and a wider range of provisions are seen to be implemented effectively.
- 4.3 Fewer children and young people need to be looked after and accommodated as a result of effective earlier intervention.

Financial impact

- 5.1 The Scottish Government has made a guarantee to fund the implementation of the Act. This has resulted in revenue funding of £4.23m and capital funding of £2.51m being provided for 2014-15 to implement the early learning and childcare requirements for 3 to 4 year olds and Looked After 2 year olds from August 2014. Further revenue and capital funding will be made available from August 2014 for 2 year olds in workless households and from August 2015 for 2 year olds who would be entitled to free school meals, however, Edinburgh's allocation of funding has yet to be confirmed.
- 5.2 The level of revenue funding will increase each year to 2018-19 to allow for greater flexibility in service delivery. Exact allocations have yet to be confirmed but Edinburgh's share of the national revenue funding allocation is estimated to be 8.3% based on the 2014/15 allocation.
- 5.3 Further capital funding will be provided in 2015-16 and 2016-17 and is expected to be at similar levels to the amount provided in 2014-15.
- 5.4 Funding for the other areas of the Act has not been confirmed as yet, however, the Financial Memorandum indicated provisional national allocations for those areas of the Act that were originally consulted upon. As subsequent additions were made prior to the Bill being passed the Financial Memorandum does not cover all areas included in the Act.
- 5.5 The Scottish Government consulted on the costs associated with the original Bill and there was broad agreement from local authorities that the early learning and childcare funding was sufficient to meet the requirements. There was, however, differences of opinion between the Scottish Government, COSLA and local authorities on the cost implications of the other areas of the Bill. Further work is ongoing with the Scottish Government, COSLA and local authorities to fully understand the financial implications of the areas of the Act that were contained within the original consultation and those areas subsequently added prior to the Bill being passed.

Risk, policy, compliance and governance impact

- 6.1 The Council will engage with the Scottish Government and COSLA in discussions on the financial implications of the Act to work to ensure the costs of implementation are fully funded.

Equalities impact

- 7.1 The Act contains a number of specific measures to enhance and promote children and young people's rights.

- 7.2 The measures in the Act should support Council objectives to give all children the best possible start in life and improve outcomes for vulnerable children.

Sustainability impact

- 8.1 The Act promotes early intervention and community-based care solutions which are consistent with enhanced sustainability.

Consultation and engagement

- 9.1 The City of Edinburgh Council has been involved at every stage in the journey of the legislation, including providing written and oral evidence to the Committee. There has been significant engagement and consultation with children, young people and families on key aspects of the Bill.

Background reading/external references

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Links

Coalition pledges

- Council outcomes**
- CO2. Our children and young people are successful learners, confident individuals and responsible citizens making a positive contribution to their communities
 - CO3. Our children and young people in need, or with a disability, have improved life chances
 - CO5. Our children and young people are safe from harm or fear of harm, and do not harm others within their communities
 - CO6. Our children and young people's outcomes are not undermined by poverty and inequality

Single Outcome Agreement

- SO2 Edinburgh's citizens experience improved health and wellbeing, with reduced inequalities in health
- SO3. Edinburgh's children and young people enjoy their childhood and fulfil their potential

Appendices