

The Highland Council

Education, Children and Adult Services – 12 November 2014

Agenda Item	16.
Report No	ECAS 55/14

Children and Young People (Scotland) Act 2014

Report by Director of Care and Learning

Summary

The Children and Young People (Scotland) Act 2014 will come into being on the 1st April 2015. This report contains a summary of the Bill and some of its impacts for Highland Council and its partner services.

1. Background

- 1.1 The Children and Young People (Scotland) Act 2014 will come into being on the 1st April 2015.
- 1.2 This report does not deal with the provisions regarding free school meals, which are the subject of a separate report to this Committee.

2. PART 1 RIGHTS OF CHILDREN and PART 2 COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE IN SCOTLAND

- 2.1 This part of the Bill relates to the rights of children and young people. There is a requirement of Scottish Ministers to consider and promote the rights of children and young people in all decisions they are making and ensure that everyone is aware and understands children's rights.
- 2.2 There will be a reporting duty for Scottish Ministers and public bodies will have to report every three years, explaining what they are doing to encourage and support children's rights.
- 2.3 The powers of Scotland's Commissioner for Children & Young People will be extended. The job of the Children's Commissioner is to promote children's rights. The Bill will allow the Commissioner to investigate issues affecting individual children where there is a concern that their rights, views and interests have not properly been taken into account.
- 2.4 It is intended that Highland will set up a Children's Champion's Board that will work in partnership with the Youth Convenor and looked after young people to ensure better and effective decision making about service policy and developments. The Board will involve senior officers and elected members with the Youth Convenor, who will consider issues being progressed through the Council, as well as issues raised by the young people.

3. PART 3 CHILDREN'S SERVICES PLANNING

- 3.1 Public bodies have to jointly make a Children's Services Plan, which describes how they will work together to provide services for children and to report on outcomes for children and young people.

3.2 Highland Council and its partners prepare a Children's Services Plan ('For Highland's Children') every three years, to plan how we will deliver services that improve wellbeing in Highland area.

3.3 It will be necessary to produce a review of the plan every year, indicating how the aims and objectives have been achieved.

4. PART 4 PROVISION OF NAMED PERSONS and PART 5 CHILD'S PLAN

4.1 Every child in Scotland will have a Named Person, whose job already involves working with children. After birth – where a midwife will have a role – the Named Person will normally be a health visitor until school age. Thereafter to 18 (or when the child leaves school) the Named Person will normally be a head, deputy head or guidance teacher.

4.2 The Named Person will be the first point of contact for children and families, and can be called upon when there is a concern about a child's or young person's wellbeing that is not easy to address. They will be in a position to spot concerns at an early stage, and work with other services to work them out.

4.3 As most children's wellbeing needs will be met from their families and services, most will not need a Child's Plan. Only where there is a concern about wellbeing and extra help is needed will a Child's Plan be prepared.

4.4 The Child's Plan will be produced by services in discussion with the child and family and will include: an overview of the child's needs; the actions that need to be taken; details of who is doing what to provide the help needed; and what improvements we expect to see.

4.5 The Child's Plan must be reviewed as often as is needed – the more severe the concern, the more often it will be reviewed.

4.6 These provisions are largely in place in Highland through the Highland Practice Model. Discussions are taking place with High Life Highland regarding the requirement for a Named Person Service after young people have left school.

5. PART 6 EARLY LEARNING AND CHILDCARE; PART 7 POWER TO PROVIDE SCHOOL EDUCATION FOR PRE-SCHOOL CHILDREN and PART 8 DAY CARE AND OUT OF SCHOOL CARE

5.1 The Bill seeks to strengthen the role of early years support in children's and families' lives by increasing 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 for 2-year olds who are, or have been at any time since turning 2, looked after or subject to a kinship care order or with parent appointed guardian.

5.2 From August 2014 the Government also made a commitment to deliver 600 hours of early learning & childcare to 2 year olds living in households where their parent(s) or carer(s) are classed as 'workless'. From August 2015, eligibility is to be further extended to include 2-year olds who are currently eligible for free school meals.

- 5.3 Early learning and childcare is defined as a service, “consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting”.
- 5.4 The Bill therefore introduces a new concept of early learning and childcare. The term seeks to remove an artificial divide between pre-school for 3 and 4 year olds; and, childcare for 0-3 year olds, or, pre-school and wrap around care for 3 and 4 year olds; whereby pre-school is the educational element delivered in short blocks tied to a certain number of hours in a day; topped up by childcare or wraparound which can be seen as less important to learning.
- 5.5 There have been regular reports to Committee regarding this matter, and there is a further separate report at this meeting.

6. PART 9 CORPORATE PARENTING

- 6.1 There should be a shared understanding about the definition of corporate parenting, about how the concept translates to professionals working within health, housing and education, and around powers to ensure partners are working together. In addition to this, and perhaps more importantly, there should be an understanding amongst young people who are looked after, of what a corporate parent is and what this means to them.
- 6.2 The Act defines corporate parenting, and clarifies the public bodies to which this definition applies.
- 6.3 If a child is looked after, the local authority responsible for their care is called their corporate parent.
- 6.4 Corporate parenting is how we define the way services work together to help children who are looked after or leaving care. The Act sets out the responsibilities that services will have to carry out so everyone understands how to be good corporate parents.
- 6.5 The Act states which services are corporate parents and that they have to plan and report on how they are working together to be corporate parents.
- 6.6 The concept of corporate parenting transcends the case social worker, or class teacher, both of who will have specific roles and duties in relation to a child or young person. The notion of corporate parenting applies equally to department heads, senior managers and elected members, and the aim is to engage all key professionals and decision makers in improving outcomes for Care Experienced children and young people. Clear strategic and political leadership is highlighted as crucial in ensuring that Care Experienced and the Corporate Parenting agenda are given the appropriate profile and priority.
- 6.7 The recent publication of key documents, ‘Extraordinary Lives’, ‘We Can And Must Do Better’, ‘These Are Our Bairns’ and ‘Getting It Right For Every Child’ have further developed the agenda around concepts of corporate parenting, and how local authorities can take these forward in policy and practice.
- 6.8 There is a seminar for elected members and partners on 13th November 2014 at

2pm, to discuss the role of the members and the new corporate parenting family.

7 PART 10 AFTERCARE and PART 11 CONTINUING CARE

- 7.1 Part 10 of the Act extends the age to which care leavers can receive support from their local authority. Young people who have been in care will be able to ask local authorities for support until they turn 26.
- 7.2 If a young person who has been in care asks their local authority for support and assistance, the local authority has a duty to assess their needs. If that young person has eligible needs, and the needs can't be met elsewhere, the authority must offer support.
- 7.3 Part 11 of the Act gives young people at the age of 16 years the right to choose to continue in care where they are living, up to their 21st birthday. This means young people may continue to live in their children's unit, residential school or foster placement.
- 7.4 If they choose not to continue in care but move to Throughcare and Aftercare, the Act does not allow for young people to then return to continuing care. Lead professionals, residential and foster carers will be expected to encourage young people to continue in care until they are assessed as ready to move into Throughcare and Aftercare.
- 7.5 At any stage until their 21st birthday, young people can choose to leave continuing care and move to Throughcare and Aftercare.
- 7.6 Highland Council is in a positive position with regard to these changes. We have for several years extended the age young people can remain in foster placements, and encouraged young people to remain in children's units.
- 7.7 In consultation with young people, the most important issues for them, was that the people who had looked after them, should continue to do so, wherever they were living.
- 7.8 There were also issues about the age range of children and young people in children's units and capacity in both residential and foster care. These issues were taken into consideration when looking at developing extra capacity and facilities where young people could learn independence skills. Working in partnership with Housing and our young people, we have developed several link houses in close proximity to our own children's units.
- 7.9 These properties can be used for several purposes and will be primarily be staffed by a link children's unit. This will ensure continuity for the young person. Some examples of use would be for young people to:
- use the link house to learn independence skills.
 - live in the house until they are ready to have their own tenancy.
 - return to Highland from a residential school, and live in the house until they have the skills to live independently.
- 7.10 There is a new procurement process started for a core and cluster 16+ facility. As part of process, we will seek 24/7 telephone support and other services to support young people living in the community. We anticipate that this process will be completed by June 2015.

- 7.11 We are also seeking to identify a property to develop a skills academy/one stop shop where young people's development and personal wellbeing needs can be met. This facility may be mobile and able to travel to where the needs are identified.
- 7.12 The criteria for Throughcare and Aftercare have also been simplified under the Act. The school leaving date criteria has been removed. At present: for young people that meet Throughcare and Aftercare criteria their lead professional moves to Barnardos Springboard when they cease to be looked after.
- 7.13 With the new legislation young people should continue in care for a longer period. To ensure positive planning and a simple transition we would recommend that the lead professional role for all continuing care young people transfers at their 18th birthday. This would bring the transition in line with the transition into adult services for young people with additional support needs.
- 7.14 Young people who choose Throughcare and Aftercare at an earlier age would continue to have a Barnardos Springboard lead professional when they cease to be looked after.
- 7.15 There is a financial memorandum attached to these sections of the Bill and Part 12 and 13. Negotiations on the allocation of this funding between Scotland's Local authorities continue.

8 PART 12 SERVICES IN RELATION TO CHILDREN AT RISK OF BECOMING LOOKED AFTER, ETC. and PART 13 SUPPORT FOR KINSHIP CARE

- 8.1 A kinship carer is a relative or friend who takes over caring for a child when their parents cannot look after them. The changes in the Act are being made to encourage more people to become kinship carers.
- 8.2 Eligible kinship carers will get help and advice if they apply for, or are considering applying for, a kinship care order, and will get enhanced support, when they get, or are subject to a kinship care order. A kinship care order is an order made under section 11 of the Children (Scotland) Act 1995.
- 8.3 Local authorities will also need to make sure that families who seek help because they are having difficulties can get appropriate forms of support.
- 8.4 The Act covers the provision of enhancing support to kinship carers and eligible children. In terms of the Act an eligible child is a child who is at risk of becoming looked after. The Act specifies that relevant services should be made available if appropriate and this may include providing information, advice and counselling as well as financial support.
- 8.5 Children who were previously subject to a residence order in terms of Section 11 of the Children's (Scotland) Act 1995 will now be subject to a kinship care order. This will come into force in April 2015
- 8.6 Secondary legislation and guidance will be introduced with more detail around how the provision of the Act will be implemented, and the Scottish Government has been consulting with interested parties around this, including about:
- Information advice and counselling support

- Assistance with legal costs for a kinship order
- Start up support
- Assistance with essential transport to comply with a contact order
- Transitional support for children who were previously looked after and are subject to a kinship order for a period of three years.
- How the assessment will be carried out in terms of the assistance to be provided
- How the assessment will be carried out in terms of whether the child is at risk of becoming looked after
- How the assistance provided will be reviewed.

8.7 At present Highland Council makes payments to kinship carers for children who are formally looked after and to those who were formally looked after and who are now subject to a residence order in terms of Section 11. Kinship carer support is provided through Children 1st, which Highland Council funds to provide this service. Children who are not formally looked after and are in kinship placements would be provided with support through the Highland Practice Model if they had additional support needs.

8.8 It is difficult to gauge the full implications of the Act in terms of kinship carers and eligible children until we have further detail of the provisions of the secondary legislation

9. PART 14 ADOPTION REGISTER

9.1 The Act puts Scotland's National Adoption Register on a statutory footing.

9.2 Scotland's National Adoption Register service was set up in 2011 and is designed to increase numbers of adoptions and speed up the process, once adoption is identified as the best way forward.

9.3 The new legislation will make it a legal requirement for all councils and adoption agencies to provide information to the Register to help make sure children are matched with the right families as soon as possible. Ministers will be legally responsible for establishing and maintaining the register.

9.4 Scotland's Adoption Register is operated by British Association of Adoption & Fostering (BAAF) on behalf of the Scottish Government. The Adoption Register is a nationwide "linking service" to increase the opportunity of finding an adoptive family for some of the children we know will wait a long time to be matched to a new family. This helps to reduce the time children wait to be placed in a permanent home. The Register also provides statistics for the Scottish Government about adoption activity in Scotland and national data in relation to the number of children registered for permanency by adoption and the number of approved adopters.

9.5 The Register uses software which finds possible matches between children and adopters who have been referred to the linking service. A newsletter, Scottish Children Waiting, is also published with profile information about some of the children referred to the linking service. Prospective adopters can take part in events such as exchange days and webcasts which bring them into direct contact with children's profiles, photos and films.

9.6 Highland Council Fostering & Adoption Service has referred a number of children to the Adoption Register since 2012. These children are described as "hard to

place”, due to their complex health needs and/or disability. These children have also been featured at several national and local exchange days and recently we have been successful in matching two brothers with adopters, who have been waiting a long time for a forever family.

10. PART 15 SCHOOL CLOSURE PROPOSALS, ETC.

10.1 The Act provides amendments to the Schools (Consultation) (Scotland) Act 2010. The ‘call-in’ process takes place when a Minister decides an investigation should be made into a decision to close a school. The Act will impact on this process, including new requirements when making a rural school closure proposal, and preventing a closure proposal from being repeated for five years. This is the subject of new Government guidance.

11. PART 16 CHILDREN’S HEARINGS

11.1 The National Convenor of Children’s Hearings currently requires to have permission from all local authorities in their area before they can either set up or reconfigure an area support team for Children’s Hearings. The new legislation states that instead of this, they will be required to consult with the local authorities.

11.2 Local authorities will be required to give area support teams certain support to help them carry out their role.

12 PART 17 OTHER REFORMS

12.1 The new law will make changes to the Criminal Procedure (Scotland) Act 1995, such that children who are placed in secure accommodation by a local authority following an order made by a sheriff will be able to appeal the local authority’s decision.

13 PART 18 GENERAL

13.1 This section contains general information regarding how children’s needs should be met, including regarding the assessment of wellbeing, with reference to eight indicators - safe, healthy, achieving, nurtured, active, respected, responsible and included.

13.2 These indicators were first developed in Highland, and are well established as part of the Highland Practice Model.

14. Implications

14.1 **Resources;** The looked after children improvement plan takes account of the current resources available within the Council. There will be resource implications and there will be some finance from the Scottish Government. The level of additional resources is not known at this time.

14.2 Other resources have been made available for implementation of provision for free school meals and early learning and childcare.

14.3 **Legal and Equalities:** The Council has key legal responsibilities for looked after children, and the Children and Young People (Scotland) Act 2014 will add to these.

- 14.4 **Rural Implications:** The Council endeavours to ensure equality of service provision to all care experienced children, wherever they live, but there are inevitable challenges getting some services, especially specialist services, to children who live in remote and rural areas.
- 14.5 Most care experienced children in after care settings tend to live in more urban areas. We are however planning all new resources across Highland and in close location to where children are living.
- 14.6 **Gaelic and Carbon Clever Implications:** There are none.

15. Recommendation

- 15.1 Members are invited to consider and comment on the issues raised in this report, and endorse the establishment of a Children's Champion's Board.

Designation: Director of Care and Learning

Date: 31st October 2014

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Background Papers:

Children and Young People (Scotland) Act 2014