

Education, Children and Families Committee

10am, Tuesday, 6 October 2015

Implementation of the Children and Young People (Scotland) Act 2014 - Update

Item number	8.2
Report number	
Executive/routine	
Wards	All

Executive summary

The Children and Young People (Scotland) Act 2014 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. Council officers continue to work with colleagues at local and national level to support the development of regulations and guidance. This report provides an update on the implementation of the legislation.

A further report on progress will be brought to Committee in October 2016.

Links

Coalition pledges	P1
Council outcomes	CO1-CO6
Single Outcome Agreement	SO3

Implementation of the Children and Young People (Scotland) Act 2014 – Update

Recommendations

- 1.1 The Committee notes progress on implementation of the legislation in Edinburgh.
- 1.2 The Committee requests a further report on progress in October 2016.

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. The provisions of the Act come into effect between 2014 and 2017. Appendix 1 provides a detailed timetable. Consultation on further statutory guidance and regulation has been ongoing during 2015 for several Parts of the Act. The current status of consultations is referenced at the appropriate section in the report.

Main report

- 3.1 The Children and Young People (Scotland) Act 2014 sets out a number of new duties on public authorities in Scotland and is at various stages of consultation and implementation. The Act is central to the Scottish Government's aim of making Scotland the best place in the world to grow up by putting children and young people and their wellbeing at the heart of the planning and delivery of services and ensuring their rights are taken into account across the public 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.

Implementation

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 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.
- 3.4 Following consultation on non-statutory guidance Part 1, children and young people's rights (section 2 and 3), should commence in April 2017, with 2020 being the first date for reporting.

Children's Services Planning

- 3.5 There is now a new duty that requires public services to work together to design, plan and deliver services for children and families. 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. Ministers can "call in" plans and request changes if necessary.
- 3.6 Consultation is planned for Part 3 of the Act at the end of 2015. Statutory guidance is to be in place by April 2016 to allow local authorities and health boards time to prepare their three year (2017-20) Children's Services Plans with 2020 being the first date for reporting.

Getting it Right for Every Child

- 3.7 The Act puts into law aspects of the Getting it Right for Every Child approach (GIRFEC), specifically the Named Person role and a single child's plan to improve the way services work to support children, young people and families.

- 3.8 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). The purpose of the named person is to provide a single point of contact for children, young people and families to turn to for advice, information and support, if and when they need it. The role also coordinates support for the child /young person, working with the family, where wellbeing concerns are identified.
- 3.9 The Act introduces the duty to share information “likely to be relevant” to the wellbeing of a child/young person with the named person, enabling a more effective response. The Act does not alter existing local child protection policy or procedures.
- 3.10 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. Following the recent judicial review which upheld the legislation as not contravening EU law or ECHR rights (European Convention on Human Rights), and that the legislation had no effect on the legal, moral or social relationships with the family, the name person role will come into effect formally in August 2016.
- 3.11 The Act puts in place a planning process with a single child’s plan 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. Plans must be kept under review to ensure that needs are being met.
- 3.12 If a child has enhanced levels of wellbeing need, a multi-agency child’s plan can be prepared to meet whatever wellbeing needs have been identified. Where a situation is more complex, or where there are two or more agencies involved, a lead professional can be appointed to coordinate the plan.
- 3.13 The lead professional can be from any service working with the child and the family (except police). Where there is social work involvement, the lead professional is normally the social worker.
- 3.14 The Act includes a new complaints procedure for parents and carers if they are unhappy with aspects of the named person service. In September 2015, the Scottish Government launched a public consultation on complaints concerning functions relating to the Named Person and Child’s Plan. The consultation is open until Friday 30 October 2015.
- 3.15 Consultation on draft guidance for parts 4, 5 and 18 of the Act was carried out between February and May 2015. Final guidance is expected to be issued late 2015 with full commencement in August 2016.

Early learning and childcare

- 3.16 Part 6 of the Act focuses on increasing the number of hours of early learning and childcare to 600 hours that three and four-year-olds, and some two-year-olds, are entitled to. Scottish Government guidance was published in August 2014.

- 3.17 In line with other local authorities Edinburgh implemented a model of 3 hours and 10 minute sessions delivered over 38 weeks from August 2014.
- 3.18 More information on the implementation of part 6 in Edinburgh is available in the [Early Years Strategy Report 2015 to Education, Children and Families Committee on 19 May 2015](#).

Children and Young People who are Looked After

- 3.19 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 effective from April 2015.
- 3.20 Following a consultation period statutory Guidance for Part 9 of the Act, Corporate Parenting, was published in August 2015. The City of Edinburgh has an established elected member led Corporate Parenting Member Officer Group 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 and is fully compliant with the requirements of this part of the Act.
- 3.21 Part 10, Aftercare, provisions came into force in April 2015 for young people aged 16 or born in 1999 and thereafter. Part 11, Continuing Care, provisions came into force in April 2015. Consultation on the draft non-statutory guidance for Parts 10 and 11, Aftercare and Continuing Care, closed on Friday 18 September 2015.
- 3.22 A Working Group on Additional Support for Care Leavers has been established to support the Scottish Government to develop a realistic and deliverable policy for extending Aftercare support to additional groups of young people; and to develop proposals for a Return to Care policy. Edinburgh is represented on the Consultation Group established to inform the Working Group.
- 3.23 Under the Act care leavers can now 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 remain in the care placement 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. It is not yet clear how this will impact on resources, statistical information is currently being gathered and will be monitored.
- 3.24 Many of the Scottish Government's aspirations of good practice for local authorities are already in place in Edinburgh. It is not a requirement for young people to leave care following an assessment of need and Edinburgh will regularly readmit 16 and 17 year olds back into care.
- 3.25 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.

- 3.26 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.
- 3.27 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.
- 3.28 Consultation on Part 12 of the Act, Services for children at risk of becoming looked after, is expected to take place in autumn 2015 with the legislation coming into force in August 2016.
- 3.29 An informal consultation on Part 13, kinship care order assistance, closed in October 2014. Further consultation on secondary legislation (the Ministerial Orders) is being progressed, working towards implementation of kinship care orders in April 2016.

Other measures

- 3.30 Parts 14 to 18 of the Act contain a range of important measures. These sections:
- 3.30.1 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 – This is current practice within CEC;
 - 3.30.2 clarify criteria for school closures, including rural schools, consultation requirements and school closure review panels - amendments to the Schools (Consultation) (Scotland) Act 2010 will be recognised and followed by CEC in any applicable statutory consultation;
 - 3.30.3 provide clarity on technical aspects of the Children's Hearings System and establish area support teams, including local authority admin and support;
 - 3.30.4 clarify the appeals process for detaining children in secure accommodation;
 - 3.30.5 modify the circumstances under which children's legal aid can be made available;
 - 3.30.6 provide legal authority for extending free school meals to all P1 to P3 pupils – this was implemented in CEC from January 2015;
 - 3.30.7 provides definitions of how wellbeing should be assessed including what are known as SHANARRI measures: Safe; Healthy; Achieving; Nurtured; Active; Respected; Responsible and Included.

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 Early Learning and Childcare section of the Act. This has resulted in revenue funding of £4.23m being provided in 2014-15 rising to £6.166m in 2015-16, and capital funding being provided in of £2.51m in 2014-15 and £2.471m in 2015-16. This is to implement the early learning and childcare requirements for 3 to 4 year olds and Looked After 2 year olds from August 2014.

Further funding was provided for 2 year olds in workless households and from August 2015 for 2 year olds who would be entitled to free school meals. Revenue funding of £1.328m was provided in 2014-15 rising to £4.014m in 2015-16 and capital funding was provided of £2.517m in 2014-15 and £2.394m in 2015-16.
- 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 allocations to date.
- 5.3 Further capital funding is expected to be provided in 2016-17 although the exact allocation has yet to be advised.
- 5.4 Ongoing funding for the 'Children and Young People who are Looked After' sections of the Act for 2015-16 were confirmed at £0.235m for Continuing Care, £0.326m for Throughcare and Aftercare and £0.045m for Changed Eligibility for Aftercare. Further funding will be provided in future years although exact allocations have yet to be advised.
- 5.5 One off funding of £0.157m for implementation work associated with the Kinship Care Order was provided in 2015-16.
- 5.6 Ongoing funding of £0.031m was provided in 2015-16 for the implementation of the GIRGEC elements of the Act and one-off funding of £0.257m was provided in 2014-15 for Workforce Development.
- 5.7 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 has engaged 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 was been involved at every stage in the journey of the legislation, including providing written and oral evidence to the Committee. City of Edinburgh will continue to respond to current and future consultations in relation to regulations and guidance. There has been significant engagement and consultation with children, young people and families on key aspects of the Act.

Background reading/external references

[Children and Young People \(Scotland\) Act 2014 – Report to Education, Children and Families Committee, 20 May 2014](#)

[The Children and Young People \(Scotland\) Act 2014](#)

[Early Years Strategy Report 2015 – Education, Children and Families Committee 19 May 2015](#)

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Links

Coalition pledges	P1 Increase support for vulnerable children, including help for families so that fewer go into care
Council outcomes	CO1. Our children have the best start in life, are able to make and sustain relationships and are ready to succeed 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 CO4. Our children and young people are physically and emotionally healthy 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	SO3. Edinburgh’s children and young people enjoy their childhood and fulfil their potential
Appendices	1. CYP Act Expected Commencement Timetable

Children & Young People (Scotland) Act 2014 Provision		Expected Commencement Date
Part 1	Rights of Children – duties of Scottish Ministers in relation to the rights of children	15 June 2015
Part 1	Rights of Children – duties of public authorities in relation to the UNCRC	April 2017 Guidance published - <i>TBC likely April 2016</i>
Part 2	Commissioner for Children and Young People in Scotland	April 2016
Part 3	Children's Services Planning	Regulations and statutory guidance commenced/published - <i>TBC likely April 2016</i> . 3 year Children's Service Plans required to be live from April 2017.
Part 4	Provision of Named Persons	August 2016
Part 5	Child's Plan	August 2016
Part 6	Early Learning and Childcare	August 2014
Part 7	Power to provide school education for pre-school children	August 2014
Part 8	Day care and out of school care	August 2014
Part 9	Corporate Parenting	1 April 2015
Part 10	Aftercare	1 April 2015
Part 11	Continuing Care	1 April 2015
Part 12	Services in relation to children at risk of becoming looked after, etc	August 2016 (<i>TBC</i>)
Part 13	Support for kinship care	April 2016

Children & Young People (Scotland) Act 2014 Provision		Expected Commencement Date
Part 14	Adoption register	April 2016
Part 15	School closure proposals	Fully commenced on 30 March 2015.
Part 16	Children's Hearings	January 2015
Part 17	Other reforms – section 91 Detention of children in secure accommodation	2015 – <i>precise date TBC</i>
Part 17	Other reforms – section 92 Children's legal aid	July 2016 - <i>TBC</i>
Part 17	Other reforms – section 93 Provision of school meals	January 2015
Part 17	Other reforms – section 94 Licensing of child performances	August 2014
Part 17	Other reforms – section 95 Wellbeing under 1995 Act	August 2016
Part 18	General – section 96 Assessment of wellbeing	Phased 2014 – 2015 in relation to specific provisions only. Full commencement expected August 2016