

# EAST AYRSHIRE COUNCIL

## POLICY AND RESOURCES COMMITTEE: 27 MARCH 2007

### GETTING IT RIGHT FOR EVERY CHILD

#### DRAFT CHILDREN'S SERVICES (SCOTLAND) BILL CONSULTATION

#### Report by the Executive Director of Educational and Social Services

#### 1. PURPOSE OF THE REPORT

- 1.1 To advise Committee of the 'Getting it Right For Every Child' (GIRFEC) policy developments and the significant changes arising from this for children's services.
- 1.2 To provide Committee with the details of the consultation exercise in relation to the *Getting It Right For Every Child Draft Children's Service (Scotland) Bill Consultation*.
- 1.3 To seek Committee approval for proposals for progressing the policy agenda resulting from *Getting It Right for Every Child* across East Ayrshire.

#### 2. BACKGROUND

- 2.1 Reports were submitted to Social Work Committee on 8 September 2005 and Education Committee on 13 September 2005 regarding East Ayrshire Council's response to Phase Two of the consultation on the Children's Hearings System - *Getting it Right for Every Child – Proposals for Action*. The Scottish Executive reported the outcomes of this consultation in March 2006.
- 2.2 An Implementation Plan resulting from the consultation process was published by the Scottish Executive in June 2006. The Implementation Plan extended beyond the initial remit of the Children's Hearing Review and covered a range of critical areas in the delivery of children's services as detailed in Section 3 of this report. A copy of this report is available in the Member's Information Point.
- 2.3 Subsequent reports on the outcome of phase 2 of the consultation on the Children's Hearing System and the details of the *GIRFEC* Implementation Plan were presented to Social Work Committee on 7 September 2006 and Education Committee on 12 September 2006.
- 2.4 The Scottish Executive subsequently published the Draft Children's Services (Scotland) Bill in December 2006 and commenced a period of consultation to be concluded by 31 March 2007.

### 3. DETAILS OF *GIRFEC* IMPLEMENTATION PLAN

3.1 The *GIRFEC* proposals incorporate important policy areas including:-

- Further development of the Child Protection agenda signalling the end of the Child Protection Reform Programme;
- Integrated children's services;
- The development of a multi agency Integrated Assessment Framework for children's services.

3.2 These policy and practice agendas are being taken forward by the Children's Services Steering Group at the Scottish Executive. This group includes key stakeholders from children's services including children's social work services, health, the voluntary sector and police.

3.3 The *GIRFEC* Implementation Plan will result in important and fundamental changes to the delivery of services to children in Scotland for universal and specialist providers of children's services.

3.4 The Implementation Plan sets out the Scottish Executive's vision of children's services for the 21st Century. It describes a commitment to ensuring that children's services are refocused to ensure that children get the help they need at the right time.

3.5 The Plan states that services for children should be more child centred and that services should work better together to reduce bureaucracy and ensure that interventions with all children and their families are timely and proportionate.

3.6 The Implementation Plan sets out the tasks for the first three years of the implementation of the *GIRFEC* proposals. This Plan will have a significant impact upon the joint planning mechanisms for children's services across local authority areas. It includes proposals for the development of key areas of joint working including the development of a single assessment record and proposals for legislative change across children's services to facilitate improved communication.

3.7 The *GIRFEC* Implementation Plan describes a three pronged approach to ensuring the refocusing of services takes place as follows:-

#### Legislation

- (i) Legislation will be taken forward by a draft Bill which, as highlighted above, has now been issued for consultation.

#### Practice Change

- (ii) The proposals support the development of a single assessment record and plan for a child to be used by all the key agencies. The information will be standardised across agencies and will assist the process of ensuring that

professionals are able to access and share relevant information on children effectively. In January 2007 the Scottish Executive published Guidance on The Child's or Young Person's Plan. This sets out guidance on the structure of a child or young person's plan. It is described as the first of a set of tools for practitioners which will be developed and improved in the light of experience and developing legislation.

A number of 'pathfinder' projects are rolling out which support agencies working differently with children and their families.

### Removing Barriers

- (iii) The Executive have indicated that they will undertake work with key partners to address barriers to effective joined up working and what prevents timely responses to need. This will include changes to the Children's Hearing System to ensure that children get the help they need at the right time. A commitment has also been made to support service redesign where necessary to address these issues.

## **4. THE DRAFT BILL**

4.1 The draft Children's Services (Scotland) Bill has three overarching aims. It proposes to:

- (i) Place duties on agencies to work together to provide support for children and make a clear plan for children with complex needs;
- (ii) Ensure that children's and their family's views are taken into account when developing plans to support them;
- (iii) Change the grounds for referral to the Children's Reporter so that children are referred to the Children's Hearing System only where this is necessary.

4.2 The Bill is presented in two key parts and contains important proposals for changes to legislation as follows:

### **Part 1 – Overarching Provisions – Functions of relevant agencies**

- Places duties on relevant agencies (local authorities, police, health boards and other bodies specified as a public body by Scottish Ministers) to promote the **well being** of children and to intervene where it is appropriate;
- Requires every relevant agency to identify and secure methods of taking into account the views of the child and other relevant people when intervening in their lives;
- Places a duty on agencies to work together;

- Places a duty on agencies to provide a plan for children with complex needs and to designate a **lead professional** for ensuring the plan is implemented.

## **Part 2 – Amendment of the Principal Act (Children’s Scotland Act 1995)**

- Contains provision to change grounds of referral to the Children’s Reporter and introduces the need for referrals to meet the ‘significant need’ and ‘compulsion’ test;
- Contains provision to place duties on agencies to implement actions agreed at a Children’s Hearing;
- Contains provision for interim supervision requirements;
- Makes provision for expediting procedures for establishing grounds of referral where the child is too young, not sufficiently mature or the child is not able to understand the grounds, but the parents accept them;
- Contains provision for the appointment of legal representatives for children;
- Allows for certain information shared with the Children’s Hearing by children to be withheld;
- Contains provision for the simplification of the current procedures in relation to children and young people who are subject to a warrant from the Hearing;

## **5. RESPONSE TO CONSULTATION**

5.1 East Ayrshire Council hosted a multi agency event to discuss the response to the consultation for the Draft Children’s Service Bill. A half day was organised on behalf of the Children’s Service Plan Steering Group. This steering Group has representatives from the key partnership agencies involved in Children’s Service Planning. Over thirty professionals from a range of agencies including social work, education, health, police and the voluntary sector participated in commenting on the key aspects of the Draft Bill. The completed consultation response is attached as Appendix 1 to this report.

5.2 The key issues highlighted by consultees are as follows:-

- The concept of **well being** should be better defined and linked to the seven dimensions of Scotland’s vision for children that they are safe, healthy, included, nurtured, active, respected and responsible and included.
- The proposed new duty on agencies to work together will require to be understood by a broad range of agencies and professionals involved in the care of children. It will bring challenges to services which, to date, have not been involved in many of the legal processes for vulnerable children

- The concept of a **lead professional** was welcomed but there needs to be greater clarity regarding roles and responsibilities of the broad range of professional groups that could potentially fulfil this role.
- The consultees highlighted the importance of developing a single Integrated Assessment Framework within which to develop the response to the proposals in the new Bill and the wider GIRFEC agenda
- The proposals for the ‘significant need’ and ‘compulsion’ tests were welcomed
- The proposals related to improving children’s rights within the legislation were welcomed
- Proposals for interim supervision requirements, expediting grounds for referral processes and simplifying warrants were welcomed
- Consultees recognised that the draft Bill will present challenges for a range of agencies in supporting some of the most vulnerable children and their families. Consultees have raised the absence of a financial framework to assist in the transitional phases of the implementation of the proposals contained in the Bill and the wider GIRFEC agenda as a significant issue and potential barrier to achieving sustainable change.

## **6. IMPLICATIONS FOR EAST AYRSHIRE**

- 6.1 The GIRFEC proposals and the content of the Draft Bill, if fully realised, will have far reaching effects for the delivery of services to children for all partners involved in the children’s service planning process. These proposals will require all partners to examine the manner in which services are delivered particularly to the most vulnerable children.
- 6.2 East Ayrshire Council has made positive progress towards the integration of children’s services and the Learning Partnerships structures offers the Council a solid foundation upon which to take the GIRFEC agenda forward. The proposals will bring new challenges to how we ensure that services are appropriately targeted.
- 6.3 It is proposed that the Children’s Service Plan Steering Group assumes the strategic lead for progressing the GIRFEC policy and legislative requirements involved in the developing agenda.

## **7. POLICY AND LEGAL IMPLICATIONS**

- 7.1 The details of the Draft Children’s Services (Scotland) Bill are set out in Section 4 of this report. It is proposed that the Children’s Service Plan Steering Group assumes lead

strategic responsibility for progressing the *GIRFEC* agenda and ensures that planning structures, policies and procedures take due account of any future legislative and practice changes arising.

- 7.2 Service Committees may require to give due consideration to specific implementation issues.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 Specific financial implications arising from the implementation of any new legislation or policy change, as a result of this consultation will be considered by Committee, as appropriate.

## **9. RISK IMPLICATIONS**

- 9.1 These legislative proposals are a matter of significant public and national interest as well as being one of central importance for individual children and young people. Progress in relation to this agenda will be closely monitored through the multi-agency children's service planning process.

## **10. COMMUNITY PLANNING IMPLICATIONS**

- 10.1 *GIRFEC* crosscuts a number of themes of the Community Plan as it impacts upon the shape of service delivery for all children in East Ayrshire. The Improving Opportunities, Eliminating Poverty and Community Safety themes are important in relation to the protection of children and the inclusion of the needs of the most vulnerable children and their families in service planning across the Council area.

## **11. RECOMMENDATIONS**

- 11.1 Policy and Resources Committee is asked to:

- (i) note national progress in relation to '*Getting it Right For Every Child*' and the implications for local authority children's services;
- (ii) note the legislative proposals outlined in section 4 of this report;
- (iii) agree the consultation response to these proposals contained in Appendix 1 of this report;
- (iv) agree that the Children's Service Plan Steering Group should assume lead strategic responsibility for taking forward *GIRFEC*;

- (v) request that the Executive Director of Educational and Social Services update relevant Council Committees as appropriate; and;
- (vi) otherwise note the contents of this report.

**Graham Short**  
**Executive Director of Educational & Social Services**  
**5<sup>th</sup> March 2007**  
**Enc (1)**

#### **LIST OF BACKGROUND PAPERS**

- (1) "For Scotland's Children – Better Integrated Children's Services" Scottish Executive 2001
- (2) "Getting It Right For Every Child – Proposals For Action" Scottish Executive 2005
- (3) "Getting It Right For Every Child – Proposals for Action: Analysis of Consultation Responses" Scottish Executive 2006
- (4) "Getting It Right For Every Child – Implementation Plan" Scottish Executive 2006
- (5) Getting It Right For Every Child – Draft Children's Services (Scotland) Bill Consultation Scottish Executive December 2006
- (6) Getting It Right For Every Child – Guidance on the Child's or Young Person's Plan Scottish Executive January 2007

Members wishing further information should contact Sally Ann Kelly, Senior Manager Children & Families and Criminal Justice, Tel: (01563) 576907.

**IMPLEMENTATION OFFICER: GRAHAM SHORT**

EAST AYRSHIRE COUNCIL

GIRFEC CONSULTATION QUESTIONS

- Q1. Do you think that the concept of well-being in relation to the duties on agencies set out in sections 1 and 2 of the draft Bill is helpful?

**Yes – it offers a more holistic view of child. There needs to be a clearer emphasis on roles and responsibilities of each agency. The concept of well being needs to be linked more clearly to the seven dimensions of Scotland’s vision for children that they are safe, healthy, achieving, nurtured, active, respected and responsible and included. There needs to be further work to look at where intellectual and educational development fit in relation to the concept of well being.**

- Q2. Do you feel that the duties on agencies proposed in sections 1 and 2 of the draft Bill will ensure that all relevant agencies can and will act together so that children get the help they need when they need it?

**It is clear that agencies already work hard together to protect children. There does, however, need to be a clearly articulated position in relation to the expectations of various agencies in protecting and safe guarding children and the multi agency nature of this task.**

**The proposals will place duties on a range of professionals intervening with children and young people and will see a number of professions act as lead professionals for children. It is clear that this will need to be clarified in relation to the respective responsibilities of these professionals especially in cases where there are no specialist services involved who would to date have assumed the lead role.**

- Q3. In your view, do the proposals in sections 2(5) and 5 of the draft Bill for recording agency decisions and actions and for a multi-agency action plan provide enough of a framework to deliver effective planning across agencies for the child and their family?

**The motivation for this is clear. The mechanics are more complex. It is important that the Executive clarifies the position of previously agreed care plans that are currently in place for many children. Specifically this will require clarification on the status of the looked after care plan used for accommodated and looked after children and the Individual Education Plan, the Educational Support Plan and the Coordinated Support Plan.**

**The progress of a fully integrated assessment framework is essential if there is to be proper information and data sharing across agencies. Developments are taking place in relation to the development of the IAF however authorities are at**

**different stages across the country and the Executive requires to take this into consideration in implementing legislative changes in this area. Many authorities will, in the first instance, require to rely on paper based systems which are labour intensive and less robust than electronic solutions.**

- Q4. It is the intention that the proposals in sections 4 and 5 of the draft Bill for collaboration of agencies will provide a robust but simple framework for agencies to work together locally. In your opinion, do you think that the framework will enable this to happen?

**These proposals will enhance already established systems in relation to the strategic management of children's services. They need to be linked to Community Planning and Children's Service Planning mechanisms in order to preserve the multi agency commitment to them. There remains a significant issue in relation to the development of shared information management systems across a range of agencies.**

- Q5. Are you content with the definition of relevant agencies (including parts of the voluntary sector) in section 7?

**No - There needs to be greater thought given to the role of the voluntary and private sector in providing direct services to some of the most vulnerable children. There are accountability issues in relation to their status, or lack of it, as 'relevant agencies'. Is accountability of these agencies only to be achieved through commissioning and contracting arrangements or is the Executive to give greater thought to how these agencies can be more accountable for their involvement with individual children – especially those children subject to statutory supervision?**

- Q6. With regards to section 11, do you agree that the Principal Reporter should not be a member of the Administration (the Board) of the Scottish Children's Reporter Administration?

**This is a matter for the Scottish Children's Reporter's Administration and the Principal Reporter to comment on.**

- Q7. The new power in section 12 for the Principal Reporter to appoint a representative if certain criteria are met is meant to safeguard the rights of those children who need such representation. Are you content with the introduction of this new power?

**Yes. Children should have access to effective advocacy services. It is important that quality assurance mechanisms are applied in order that the service is deemed fit for purpose.**

- Q8. In section 12 the criteria for legal representation is expanded to include the appointment of a legal representative where a Children's Hearing is likely to make a movement restriction condition. Are you content with the introduction of this new criteria?

**Yes. Where liberty is in question a legal representative should be made available prior to a decision being made.**

- Q9. Section 14 introduces new provision to withhold information about the child where disclosure would be significantly against the child's interests. Are you content with this new provision?

**Yes. With the provision that clear guidance is provided and the child is not placed at risk as a consequence of the hearing making a decision to withhold the child's information.**

- Q10. Are you content with the proposals in section 15 of the draft Bill to change the grounds for referral to the reporter and the Children's Hearing to reflect the needs of a child and the need for compulsion?

**Yes. This is an important development and should ensure that only children requiring support and assistance from the hearing systems are referred. The principle of ensuring that all that can be done was done prior to the referral being made to the Reporter is already enshrined in the minimum intervention principle but this helpfully restates the position.**

- Q11. The relevant situations in section 15 are intended to improve on the existing conditions in section 52(2) of the 1995 Act and to address possible gaps such as self-harm by a child and exposure to domestic abuse. Do you feel that the relevant situations are appropriate?

**Yes. These developments are welcome and professionals are content that self harm and exposure to domestic abuse are recognised as significant issues requiring to be addressed and supported in a multi-agency way.**

- Q12. In your opinion, do the provisions in section 16 of the draft Bill to expedite the establishment of the situational condition where the relevant person accepts the condition but the child has not understood or is not able to understand provide adequate and appropriate protection for the rights of the child?

**Yes. But this would be dependant on checks and balances being in place.**

- Q13. In your opinion, do you feel that the proposals in section 17 for interim supervision requirements provide an appropriate additional option to a Children's Hearing when they are unable to dispose of a case?

**Yes – this is a very welcome development. Additional tool which allows Local Authority's legal right to work with child without need for warrant. Maximum of 66 days should be adequate to allow for disposal of cases.**

Q14. In relation to section 18, it is intended that any agency which is taking, or is expected to take, action in accordance with a supervision requirement should have a duty to take such action. It is also intended that a Children's Hearing may impose specific duties on an agency. A formal enforcement process will apply to breach of duties as is currently the case in relation to duties imposed on a local authority. The provisions in relation to duties set out in section 18, together with existing duties of a local authority, are intended to adequately and appropriately provide for duties to act in relation to a child subject to a supervision requirement. Do you think that they do so?

**No. The existing duties in relation to local authorities have not been positive. There are examples of panels using the Local Authority accountability rule in situations where local authorities have worked hard at trying to give effect to elements of a supervision plan. A practical example of this is the local authority accountability rule being applied to local authorities who cannot access specialist placements for difficult to place children. This provision is only useful if those applying it are properly trained in order that realistic and appropriate recommendations are made.**

Q15. In relation to section 20 on warrants, it is intended that section 66 will apply where there is an application to the sheriff under section 65. It is intended that section 69 will apply where the situational condition is accepted/established (and there is no current section 65 application). Section 45 and section 63 will continue to apply in their own particular circumstances. Further refinement to ensure this effect is intended. In your opinion or in the opinion of your organisation, will such an approach simplify warrant procedures?

**Yes (but see below).**

**Interpretation of the bill p66 of consultation requires clarification and simplification before any considered response can be given. Continuation of warrant without further hearing is helpful.**

Q16. The consultation document sets out a number of proposed changes to the Children (Scotland) Act 1995 arising from the Vulnerable Witnesses (Scotland) Act 2004. Are you content with these proposals?

**Yes. Removing onus on vulnerable young person to Reporter is helpful. Removal of restriction on evidence on certain CP cases is equally helpful. Section 68A "Hearsay" Requires further clarification.**

Q17. For the small group of young people who continue to pose a risk to themselves or others, and who cannot or will not engage with services who are working to change their behaviour, we wish to explore further options to compel them to change their behaviour. To secure continued support and intervention for young people involved in offending we would like to hear your opinions on:

- How we can best ensure that children’s services continue to support young people who offend to cease offending and make a successful transition into positive adulthood?
- How we could formalise systems to ensure that this happens?
- How we might respond to the concerns of our communities in the best way to deal with the problem of persistent offending by young people?
- What, if any, legislative requirements do you believe would be required to deliver this?

**Develop contracts with the individual whereby responsibility (ownership) lies with the relevant person then being linked to meaningful (to individual) incentives.**

**Early intervention and use of learning partnerships providing effective (interagency) support mechanism which identify children who are “at risk” of becoming offenders increased resources focused on “diversionary” opportunities /development activities.**

**Engaging local businesses/community. Raising awareness of local/national initiatives – seeking partnership working to proactively (jointly) tackle issues.**

**Legislative requirements appear to be sufficiently addressed within the Bill.**

**Focus on engagement/partnership working with individual where possible/appropriate rather than compulsion.**

Q18. The Scottish Executive is committed to promoting and supporting the rights of children and to reflecting the provisions of the UN Convention on the Rights of the Child in the development of policy and legislation. To ensure that we are effectively promoting and supporting the rights of children we would like your views on the following:

- The Bill as drafted is intended to improve children’s rights in Scotland. Do you feel it will do so effectively?
- Should we also consider a general duty on agencies working to meet the needs of children to also promote and support the rights of children?

**Yes – in terms of legal representation. Respect re issues of confidentiality. Reporter’s responsibilities re decision made to release child prior to children’s hearing taking place – some potential for conflict here if this decision is made (without the child being seen by reporter) and custodial staff have genuine concerns that if they release the child presents real issues re the safety of this child and or others.**

**Recognizing that legal representative can bring an adversarial dimension to hearing negatively impacting on “round the table” discussion – however this needs to be balanced against the rights of the child or young person. No need for “general duty” as this area is already carried out by agencies.**

Q19. The Scottish Executive is committed to equality of opportunity for all regardless of race, religion or belief, disability, sexual orientation, age or gender, language, social origin or political opinion. Do you have any views on whether anything in the draft Bill will have a differential impact on equality communities?

**Critical to this will be an impact assessment.**

Q20. We would be grateful for views on what further legislative provision for information sharing beyond that proposed in the Protection for Vulnerable Groups (Scotland) Bill may be necessary to deliver the Getting it right for every child agenda.

**May be a legislative requirement to ensure appropriate information sharing procedures are in place across all agencies (Health/SW/Police etc) need compatible (I.T.) systems to allow information sharing to be effective.**

Q21. Would amending the definition of a child 'in need' in the Children (Scotland) Act 1995 be helpful to the aims of Getting it right for every child without causing unwanted consequences?

**No. Present definition provides a level of flexibility which works well at this time.**

Q22. We would be grateful for informed comment on any or all of the matters discussed in the partial Regulatory Impact Assessment including views on any matters arising from the draft Bill which may (in your view) have cost implications.

**Yes – there will be significant cost implications attached to the implementation of this Bill and the wider GIRFEC agenda. The Scottish Executive requires to put a clear financial framework in place to support the implementation of this legislation and the transitional processes involved in reshaping children's services.**

**There will be additional costs in relation to multi-agency training, I.T. systems development, ongoing monitoring, staffing to coordinate these activities across agencies.**

**The increased level of legal representation for children and young people will result in increased costs to the Local Authority in fulfilling this function.**

**A potential reduction in referrals to the Hearings Systems may result in longer term reduction in costs in respect of hearing systems however this will not produce any short term cost savings and therefore transitional funding will be required to support the development of this agenda.**

Q23. We are interested in any other views you have on both the content of the draft Bill consultation and on ways which we could make this type of exercise more accessible to a wider range of people in the future.

**If the vision for services is to be realized then there needs to be a recognition that universal services will require to enhance support towards the most vulnerable children and young people. This shift will present challenges to all services in continuing to deliver services to all children. It will require a realignment of resources, at national level, to ensure sustainability. A key question is how this sustainable change can be achieved without clear changes to the funding streams for children's services.**

**There are a number of national reviews in relation to children's services that are not clearly articulated in relation to where they fit with regard to these proposals. Health colleagues were unsure as to where the review of community nursing "fits" within the wider GIRFEC proposals.**

**ASL Legislation and the application of this to children's services is crucial. The interface between this legislation and the Children's Service Bill is not articulated.**

**Similarly there is no articulation of the relationship between this consultation and the forthcoming youth court feasibility working group.**