

**Barnardo's Scotland response to the consultation on Support  
for Children (Impact of Parental Imprisonment) Bill - April  
2015**

**Introduction**

Barnardo's is the UK's largest children's charity, Barnardo's Scotland works with more than 26,500 children and young people in over 122 specialised services across Scotland. We do a wide range of work within the justice sector, both inside and outside the prison estate. We have two dedicated services in Scotland working with children who have a parent in prison and their families, our Thrive Public Social Partnership in Perth & Kinross and Angus, and our Parenting Matters service in HM YOI Polmont.

We welcome the opportunity to have an input into this consultation and commend the Member for bringing this issue to the attention of the Parliament.

**Q1. Do you support the general aims of the proposed Bill? Please indicate yes/no/undecided and explain the reasons for your response.**

Yes.

Parental imprisonment is an issue affecting thousands of children and young people in Scotland today. It is estimated that there are over 27,000 children in Scotland affected by the imprisonment of a parent,<sup>1</sup> but an estimate is the best we can do because there is no robust form of identification or assessment for this group of children. Barnardo's as a UK wide organisation has been engaged in work which supports children affected by parental imprisonment and their families for over 20 years, in both prison and community-based settings. The failure of statutory services to properly collect information on this group, and put in place tailored approaches to meeting their various needs, has been a constant issue in this period.

Within our own Barnardo's Scotland children's services, we recently carried out a survey of staff and found that over 70% of the staff members surveyed had worked with a child or young person experiencing parental imprisonment at some point. These services are largely family support services and not specifically designed to work with or address the needs of children with a parent in prison.

Our staff cited a range of issues faced by this group, including isolation, stigma, secrecy, social exclusion, poverty, loss, bereavement and trauma among a raft of other things. These experiences reflect the international research on children

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<sup>1</sup> Scottish Government Justice Analytical Services (2012) 'Freedom of Information request' from Dr Chris Holligan, 26 January 2012

affected by parental imprisonment and highlight for us just how significant an issue this is within our own services.

One of the issues faced by agencies and organisations in Scotland working with children and families is that children affected by parental imprisonment are more often than not a hidden population. Because they are not counted and they are not identified, it is difficult to develop services which are tailored to their needs or equip professionals with the skills and awareness required to support them, therefore any approach which seeks to identify and support these children is to be welcomed.

As well as the children and families we work with who do disclose that they have a parent or partner in prison, there are many more we will be working with, for other reasons, who don't want to disclose this information. There is a significant stigma attached to imprisonment, and we frequently learn of families who are so desperate to ensure the school and wider community doesn't find out that everything is done to hide the truth, including some mothers telling their children that 'daddy is off working on the oil rigs'. This secrecy and confusion can often compound other issues the family might be having with low income, poverty, housing, unemployment and so on. We need to collectively consider what can be done to reduce this stigma in order for parents and children to feel comfortable asking for help and support. The first vital step is to have a system in place where we can identify this group of children and young people.

We believe that both provisions in the Bill would provide the trigger for assessment these children need in order for them and their families to access support.

**Q.2 Would you make any changes to the proposed Support for Children (Impact of Parental Imprisonment) Bill and if so, why?**

**Remand and sentence**

We believe it is within the remit of the Bill to address the issue of remand. 70% of women on remand will not receive a custodial sentence, the majority of these women should not be locked up whilst awaiting trial; they should be monitored at home in the community to prevent the trauma and upheaval of separation caused by the use of remand. A child will not differentiate between their parent serving a 3 month custodial sentence and a 3 month spell on remand. Either way their parent is in prison for 3 months, they are separated from them for 3 months and the impact will likely be the same.

We would therefore like to see the Bill address this, potentially by requiring a Child and Family Impact Assessment to be done for every child when their parent is 'sent to custody' instead of 'sentenced to custody' that would then include those remanded to custody as well as those sentenced to custody, with the duty remaining on courts.

**Sibling imprisonment**

Some of our services have highlighted to us that many of the children and young people they work with are affected by the imprisonment of a sibling, rather than a primary carer. This is especially pertinent in some of our services working with looked after young people, often in residential care.

Older siblings can have a huge influence over younger siblings. An older brother or sister is often looked up to and admired; if they become involved in criminal activity and end up in prison this can have a hugely detrimental effect on a child or young person. As well as the impact of immediate separation, and the loss felt by this, younger siblings can often model their behaviour on siblings they look up to. There is a danger that without appropriate supports put in place, siblings left behind may start to model criminal behaviours and act out in response to the loss and separation of a beloved brother or sister.

Whilst we recognise that the scope of the Bill may not allow for these provisions to be included, we still thought it appropriate to highlight sibling imprisonment as a wider issue going forwards.

**Q3. Do you see any potential challenges (including implementation) with the proposed Child and Family Impact Assessments? And who do you think is best placed to deliver them?**

Policy responses to children and families of prisoners in each of the four UK nations are largely based on the fact that reoffending rates fall if prisoners stay in contact with their families. Attention has tended to focus on how children can contribute to the prisoner's rehabilitation, rather than how they are coping, or whether their rights, as children, are upheld.<sup>2</sup> This is why we believe Child and Family Impact Assessments are so important, there are currently no structures in place which place children and families at the heart of what is more often than not a very traumatic and difficult time for them.

In this section we have taken the opportunity to outline what we see as the benefits of Child and Family Impact Assessments.

### **Triggering access to support**

Barnardo's Scotland believes that Child and Family Impact Assessments would ensure that the rights of the child are upheld and respected and appropriate supports are put in place to address their particular needs. Assessments should be focused on the age and stage of development of each child and on their individual wellbeing needs, most importantly the assessment should be child-focused. It is equally important that the parent left behind is supported as well, and if necessary signposted to appropriate adult support services.

Barnardo's project staff working with families affected by imprisonment have helped partners in the community in a variety of ways, including accessing health appointments, benefits, nursery provision and supporting them to attend prison visits with their children. This kind of support is not consistently available and these partners often struggle on their own because they are not usually accessing mainstream support, and no agencies are picking them up and identifying them or their children as in need of support. They are often left isolated in the community with no support networks and no services available to them; they are often reluctant or simply unable to seek out services for fear of being labelled or stigmatised or simply a lack of resource.

An assessment of need would make a great difference to these children and families and hopefully act as a trigger for support, whether that be universal or a more targeted intervention:

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<sup>2</sup> Glover, J. (2009) 'Every night you cry – the realities of having a parent in prison' Barnardo's (p2)

*'We worked with a young dad incarcerated in Polmont and his girlfriend who had a baby of a few weeks at home; they lived in quite a rural setting. The father was very keen to see his son and bond with him and was working with Barnardo's Scotland through the Five to Thrive Dads Group (Parenting Matters).*

*We were approached to see if we could offer any support in assisting the mum to bring the baby along to the group work programme. We supported this contact on several occasions and issues or barriers for the mum to manage this on her own were: distance to travel with a young baby (the journey would mean a very early morning start and a late evening return home, with several changes from bus, to train back to bus) and no family support to help her with this given their work commitments, and cost.*

*Supporting the mum gave us opportunities to talk about the challenges facing both the young parents and to speak about what the dad was learning in his group and how she could be supportive of this and also learning the same things as the dad via our parents group work programme' (**Barnardo's Scotland Project Worker - Thrive**)*

### **Children's rights and not sentencing processes**

The Bill proposes the introduction of Child and Family Impact Assessments (CFIA) after the point of sentencing. Previous attempts to legislate for CFIA have been unsuccessful for various reasons; the key concerns being that they would add more bureaucracy to the sentencing process or inspire sentencing leniency for offenders with children. We welcome the fact that this Bill separates the needs of the child from the process of sentencing. This shifts the focus away from sentencing and rightly into the territory of the Getting it Right for Every Child (GIRFEC) framework and the rights of the child. Any impact assessment should be child-centred and structured around SHANARRI indicators to assess the wellbeing of the child.

### **Criminal Justice Social Work Reports**

It has been argued that Criminal Justice Social Work Reports (CJSWR) can be used to address the needs of children and families. We do not believe that CJSWR are fit for purpose in terms of assessing the individual needs of the children and families of prisoners. To quote the Scottish Government's own guidance on CJSWR <sup>3</sup>

*'This report (previously called a social enquiry report) is intended to assist in the sentencing process and to complement the range of other considerations, such as victim information and narratives from the procurator fiscal. In particular, the CJSWR provides information on social work interventions and **how these may impact upon offending behaviour**'*

*'The absence of positive influence and support in an individual's life could be a risk factor in terms of further offending. Conversely, the presence of supportive, anti-criminal family members can be a strength or protective factor in the individual's life.*

<sup>3</sup> Scottish Government (2015) 'Criminal Justice Social Work Statistics in Scotland 2013-14' (p8) <http://www.gov.scot/Resource/0047/00474323.pdf>

*The emphasis here should be upon assessing the nature of the individual's relationship with family members to establish:*

- **Whether they are, or could be, a positive source of influence to help the individual change his or her behaviour;**
- **Whether their attitudes and beliefs or own involvement in offending behaviour are contributing to the subject of the report's involvement in offending;**

As is clear from the above, the intention of the CJSWR is to establish **what the family can do for the offender, not what statutory services can do for the family**. In accordance with guidance, when compiling the report, the Criminal Justice Social Worker should '*consider the impact of disposals on the individual and his/her family, including any children*'<sup>4</sup> However as the end result of these reports is the sentencing decision, recommendations in the report are designed primarily with this end in mind and with the purpose of seeking to prevent further reoffending, this is not a process of assessment centred on the family or indeed the child and therein lies the problem.

Even when conducted these reports generally only touch upon any childcare responsibilities and tend to be almost exclusively offender focused as they are undertaken by specialist Criminal Justice Social Workers. If the report concludes that a custodial sentence is necessary, even after having considered the wider impact on the family, what then for this family? If there are no child protection concerns it is unlikely that the child will be flagged up to statutory services. Who is looking out for them once the report has served its purpose of assisting in the sentencing process?

We believe all children should have a separate wellbeing assessment carried out if their parent or carer is sentenced to custody in order to prevent the longer term adverse effects on their physical, social and emotional development. We believe this assessment could form part of pre-existing structures under GIRFEC provisions as will be mentioned in question 5.

### **A whole family approach**

A really important area of learning from our work in Scotland with children and families with a parent in prison has been the importance of throughcare and of involving the whole family in any interventions. Many of the testimonies from our service users highlight just how important it is to have continuity in support which extends from the community, into the prison and back and involves both parents, if possible.

*'I was sentenced to prison in April and my whole world came crashing down as I had to leave my finance and my daughter who was 3. My finance is dyslexic and suffers from a lack of confidence when dealing with banks, bills etc. I had no idea how she would cope with any of this, as on top of this she is now left to look after our daughter herself. Thrive staff contacted my fiancé at home and immediately got the ball rolling from chasing the council for housing through to redirecting my mail and setting up direct debits, my daughter also loves when our Thrive worker visits and adores her.*

<sup>4</sup> Scottish Government (2010) '*Criminal Justice Social Work Reports and Court Based-Services Practical Guidance*' (p25) <http://www.gov.scot/Resource/Doc/925/0116779.pdf>

*The service does not stop there, they also got us involved in family visits at the prison and arranged activities such as cake decorating, painting etc, things I never thought I would be doing with my daughter for a long time, still now my fiancé receives regular visits at home to discuss life in general, and issues and activities in the community, I receive visits from our Thrive worker in prison to check how I am.*

*Although I am in a bad situation I feel relaxed knowing my family has the support of the Thrive team, without them I am certain this would be a very different sad situation' (Barnardo's Scotland, Thrive service user)*

We would therefore like to see any Child and Family Impact Assessment take account of this by taking a 'whole family approach', by recognising that each family will have different needs, requiring different responses. Some may need practical help with bills, benefits, housing, childcare arrangements, prison visits etc. all of which will have an impact on the children involved. Others may need more specific, targeted, therapeutic responses; others may need no support at all. For these reasons it is important that the CFIA is completed by those who have a relationship with the family and can take account of the whole picture of family life, both in the community and through relationships with the parent in prison, only then can the appropriate and necessary supports be put in place.

### **Voice of the child**

In accordance with Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) which states that '*States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child*' we hope Child and Family Impact Assessments will allow children to express their views, emotions and feelings about what is happening, helping them to feel included and listened to.

Children often feel excluded from court proceedings and their point of view is often bypassed, despite the fact that decisions being made will directly affect them. One boy interviewed for a recent Barnardo's report stated <sup>5</sup>

*"No-one has asked me what I want to do; no-one has asked me if I want to see my dad; no-one has asked me anything"*

We need to support these children right from the start and this requires their voice to be heard; we shouldn't be waiting for behaviours to manifest and situations to worsen for interventions to take place. If we can assess the needs of each child and implement the appropriate support there will be less need for crisis management further down the line.

### **Data collection**

As well as providing qualitative information about the children involved, Child and Family Impact Assessments would also serve as a quantitative tool for counting and recording the number of children affected by parental imprisonment.

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<sup>5</sup> Barnardo's (2013) '*Working with children with a parent in prison: Messages for practice from two Barnardo's pilot services*' (p9)

As recommended by the UNCRC (Day of General Discussion 2011) <sup>6</sup>

*"Statistics about children of incarcerated parents should be routinely and consistently gathered, to help develop policy and practice"*

This does not happen in Scotland at present, and it is impossible for governmental and statutory agencies to make provisions for children if they do not know about them. If an assessment was mandatory for all children who have a parent or carer sent to prison then the Scottish Government would be able to quantify the number of assessments done and start to provide statistics about the number of children in Scotland affected by parental imprisonment, the impact and the types of interventions required.

The introduction of any new system will be challenging to some degree. However, this must be considered in the context of the long term benefits to children, young people and their families.

**Q5. Do you think there are any alternatives to Child and Family Impact Assessments?**

No.

We believe Child and Family Impact Assessments (CFIA) are necessary because there is currently no system or process in place which ensures that children and their families receive immediate support after their parent or partner is sent to prison. However we do believe that existing processes such as GIRFEC would be well placed to incorporate these assessments and any subsequent recommendations.

Under the terms of the Children and Young People (Scotland) Act, every child will have a Named Person, and, where necessary a single Child's Plan. However the Named Person and the Child's Plan do not represent an alternative to the CFIA approach. A statutory Child's Plan will only be required if the child requires a targeted intervention, and while the response by statutory bodies to the issues raised in the CFIA may be a targeted intervention outwith universal services, in most cases the needs identified in the CFIA will be most appropriately met by a more tailored approach within universal services. The CFIA should be built into existing processes and any recommendations integrated into the Child's Plan and any other work being done with the child and their family.

When an adult with dependent children is sent to custody, whether that be on remand or sentence, the Named Person should be informed by the courts, we believe this should automatically trigger a wellbeing assessment under GIRFEC provisions. The draft statutory guidance for the Children and Young People (Scotland) Act 2014 highlights a non-exhaustive list of reasons why a wellbeing concern may be identified. Some of the reasons cited are *'the child or young person may be worried, anxious, or upset about an event/set of circumstances, including socio-economic circumstances'* *'a parent may be concerned about the impact on their child of an event or set of circumstances'*

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<sup>6</sup> Robertson, O. (2012) *'Collateral Convicts – Children of incarcerated parents'* Quaker United Nations Office, Human Rights and Refugees Publications (p5)

Child and Family Impact Assessments could be built around existing assessments such as the 'my world triangle' which examines key areas of the child's circumstances including, how the child is growing and developing, what the child needs from the people who look after them and, most importantly in relation to the issue of parental imprisonment, the impact of the child's wider world of family, friends and community.

**Q6. Do you think the proposed amendment to the Education (Additional Support for Learning) (Scotland) Act 2004 is sufficient to provide the necessary support for children experiencing parental imprisonment? If not, please explain why.**

We believe that an amendment to the Education (Additional Support for Learning) (Scotland) Act 2004 is appropriate. The ASL Act recognises that many children and young people will require additional support at some point in their lives. This may only be for a short period. The important point is that their needs are assessed when their circumstances change. For children and young people affected by parental imprisonment, their circumstances can change overnight. The Act recognises looked after children as a specific vulnerable group, the Bill seeks to add children affected by the imprisonment of a parent to that group, we believe that this could be a huge step in recognising and identifying these children, who are too often hidden, and the particular vulnerabilities they face.

#### **Additional support for learning provision**

One of the main issues facing children and families affected by imprisonment is the stigma attached to having a family member in prison. Many of the parents we work with, both in our targeted and universal services, have told staff that the school are unaware of their situation, because they are trying to keep the fact that their partner is in prison a secret. There can be many reasons for this; they may be trying to protect their child from bullying or the social isolation which comes from having a parent in prison.

However, research has shown that schools are well placed to provide support to children with a parent in prison, but are often unaware of the issue and information is not shared. The COPING project, conducted in four European countries, which aimed to identify children with imprisoned parents and their needs, found that around half of the children of prisoners they interviewed in the UK needed some level of emotional support from school or other agencies.<sup>7</sup> It is important to assess and address the needs of this group of children in a non-stigmatising way; it is therefore welcome that the Bill seeks responses on potential ways to do this through pre-existing, additional support for learning structures.

Children and young people can often feel locked out of decision making processes when their parents go to prison. Schools can play a really important role in ensuring that these children do not feel as though they can't talk about how they are feeling. Therefore we should be aiming for an education system which acknowledges and understands what these children are going through. We would hope that enhanced training for education professionals, Named Person's, Lead Professionals and all those involved with a child through GIRFEC, on the impact of parental imprisonment on children would run alongside this change in legislation.

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<sup>7</sup> <http://www.i-hop.org.uk/ci/fattach/get/63/0/filename/COPING+Schools+Briefing.pdf>

The work done by Families Outside, training teachers and walking them through the prison visits process is really breaking new ground in this area. Teachers should be aware of the potential impact parental imprisonment can have on a child or young person and be aware of the signs. The catalyst for this will be recognition within legislation that we should be identifying these children, assessing their needs and providing appropriate support if necessary.

It may be that a child or young person is assessed as requiring no additional support, require short term, low level support or may need an Individualised Education Plan (IEP). Where a child or young person has other needs and there are other support services involved, this may lead to the need for a Co-ordinated Support Plan (CSP), this is unlikely to be the end point in most cases, the key point is that an assessment is made in the first place.

### **Comparisons to looked after children**

Research conducted by Barnardo's Scotland in 2009, on behalf the Equality and Human Rights Commission Scotland looked at how prepared Local Authorities were in terms of implementing the new amendments to the ASL Act relating to looked after children. Some Local Authorities highlighted that the presumption of Additional Support Needs for looked after children would '*raise[s] awareness of the type of needs experienced by looked after children and the effect on educational outcomes*'<sup>8</sup> We would hope that including children affected by parental imprisonment in a similar way would have a similar impact.

There are already good practice models out there, such as the Highland Practice Model for delivering Additional Support for Learning. What we hope this amendment would do is to highlight parental imprisonment as a trigger and start to identify these children. Evidence shows that children affected by parental imprisonment are likely to struggle within education for a whole variety of reasons, but due to the stigma attached to imprisonment they often keep their problems hidden meaning they fly under the radar of the ASL system, and they don't receive the additional help and support they are entitled to.

### **Reducing stigma**

We need to work towards a culture and a society where children and families don't feel like they need to hide the truth about imprisonment, where they don't feel ashamed to ask for help. By including looked after children as a vulnerable group within ASL legislation we are acknowledging the struggles they face, and we are saying they are entitled to help. Children affected by parental imprisonment so often suffer in silence, carrying a burden, suffering trauma and mental health problems. By acknowledging them through this legislation we are telling these children and families that we acknowledge this struggle, and we are putting systems in place to help you. It is not about singling them out and stigmatising them further, rather it's about letting them know that they are entitled to support and providing the legislative vehicle for that to happen.

The success of this proposal if implemented will rely on how well Local Authorities discharge their duties to assess children affected by parental imprisonment for any additional support needs they might have, and this would need to be addressed through guidance or secondary legislation.

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<sup>8</sup> Cundy, J. & Duffy, M. (2009) '*Looked after children with additional support needs in Scotland – a scoping study*' Barnardo's Scotland (p 47)

## Parental involvement in their children's education

Looked after children sometimes do not have a parent or carer who is willing or able to advocate on their behalf; practitioners and key stakeholders [in the Barnardo's study in 2009] repeatedly contrasted this lack of support to the many well informed, articulate, 'middle class' parents of children with disabilities who have wide access to advocacy and support services and are well aware of their children's rights to ASL <sup>9</sup>

*"It's an unfortunate assumption sometimes that parents who are chaotic and haphazard are not interested or don't have a handle on what's going on with their kids ... they may not have been able to support (them, but) nevertheless they have a view on what they want for their children in education."* **(Residential Unit manager)**

Children with one or both parents in prison may not have a strong voice to advocate for them due to their often chaotic lifestyles, they may therefore miss out on the additional support they are entitled to. The parent in prison may well want to be involved with their child's schoolwork and this might be beneficial for the child, with access to additional support this could be facilitated. For example, additional support may mean a parent in prison can help with homework via skype, or a child may be supported to prison visits within school time.

We therefore believe that the key to this provision in the Bill is identification, these children will often have additional support needs, for which they are entitled to support. However, children and families affected by imprisonment are often reluctant to disclose their situation to professionals, but additional support in school could be a key lifeline for many families.

### Additional comments

There is potential for cultural change to be facilitated by the provisions in this Bill. This group of children are often referred to as hidden or invisible victims. The difficulties and traumas they face are associated with criminality, they are tarnished and their experiences do not automatically elicit a sympathetic public response. Families are therefore unlikely to tell others about their situation for fear of intervention from social work, being labelled, targeted or shunned by neighbours. More often than not children are told not to tell anyone about their parent being in prison, their problems are not addressed, shared or dealt with which can lead to them escalating. We need to work towards a society where these children and families are not stigmatised, where they feel comfortable asking for support and where these supports are available.

Legal change has a crucial role in facilitating cultural change, if this group of children and families are recognised in law and the organisations and bodies that they come into contact with become more aware of the impact, we would hope to see a societal shift in the way communities view children and families affected by imprisonment.

**We look forward to engaging further with the process as this Bill develops.**

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<sup>9</sup> Ibid (p 59)