



# Progressing Children's Rights in Scotland: An Action Plan 2018-21

## Response by Barnardo's Scotland

September 2018

### High level contents of action plan

- 1 Do you agree that the Action Plan should include:
  - 1.1 Identified strategic actions intended to secure transformational change in how children and young people experience their rights. Yes
  - 1.2 A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles. Yes
  - 1.3 A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives. Yes

### Proposed strategic actions

- 2 Do you agree that the 4 proposed strategic actions are appropriate and will help to take forward the principles of the UNCRC?
  - 2.1 Development of a dynamic Participation Framework for Children and Young People. YES
  - 2.2 Ambitious delivery, through co-production, of the 3 year children's rights awareness programme. NO - needs to be built around ensuring understanding of rights alongside awareness.



2.3 Progressing the comprehensive audit on the most effective and practical way to further embed principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law. YES

2.4 Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA). YES

3 Are there ways in which the proposed strategic actions listed above could be further strengthened? Please specify.

Barnardo's Scotland is supportive of the proposed strategic actions although much more needs to be done to deliver a truly progressive action plan that will promote and protect the rights of all children in Scotland. The Action Plan should be based upon (and reflect) fundamental Human Rights Principles of

- a) **Universality** – Promoting and protecting the rights of all children whilst recognising that specific groups will need further support up uptake their rights. The Action plan should consider the impact of Child Poverty on the realisation of rights for many children out-with the 'traditionally' deemed vulnerable groups.
- b) **Participation** – seen as a fundamental right that if fully protected can lead to significant change for children and young people's lived experiences.
- c) **Accountability** – being clear on who is accountable for the implementation and monitoring of the Action Plan.
- d) **Transparency** – being clear on the processes involved, keeping children, young people and stakeholders up to date on progress or on-going issues.
- e) **Non Discrimination** – Protecting children and young people from policies and practices which may have a discriminatory effect.

Overall the plan would benefit from further reference to existing legislation and international conventions – Human Rights Act, UNCRC and the Convention on the Rights of Persons with Disabilities (CRPD)

Careful consideration needs to be given on the language used within the action plan especially in relation to terms such as 'participation' and 'co-production'. Use of these terms need to be fully defined and rooted within a



*rights based framework to ensure that children’s involvement in decision making processes is seen as a right and not an after-thought. The Action Plan should seek to deliver on the UN Committee 2016 recommendation to "establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at a local and national level, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities".*

Flexibility of approach needs to be embedded into the Participation Framework including the active use of digital technology. The framework should also seek to establish a database of existing consultations/research projects where children and young people have already expressed their views on specific topics. The framework should make use of this information to inform further in-depth investigation rather than repeating previous processes.

Much greater emphasis needs to be placed on increasing the understanding of rights in addition to raising awareness. Raising awareness alone is not sufficient, the children’s rights awareness raising programme needs to include clear methods of assessing the increase in understanding amongst all stakeholders (including parents/carers) – this needs to include key aspects such as absolute/limited rights, conflicting rights and how to challenge potential rights violations.

Whilst Barnardo’s Scotland welcomes the recent announcement by the Scottish Government of the intention to embed the principles of the UNCRC into Scottish Law we remain committed to the full incorporation of the convention into domestic law but understand that this will require further discussion. It is important that the auditing process includes investigating the most effective method of incorporation taking into consideration evidence from other countries that have successfully taken this progressive step. The audit should also consider the impact of current legislation in relation to rights of children and establish whether further strengthening is required.

The proposed evaluation of the Children’s Rights & Wellbeing Impact Assessment process is a positive development although the evaluation must not be limited to an evaluation of the tool itself, but should include how the tool is used, how it has been monitored and what impact it has had on policy development.



4 Are there additional or alternative strategic actions that the Scottish Ministers should consider? Please specify.

One of the outcomes of a successful 'awareness raising and understanding rights programme' could be an increase in complaints from children and young people. It is therefore essential that the Action Plan should include a strategic action looking at ensuring that children and young people (and relevant stakeholders) are supported to challenge rights violations i.e. ensuring access to effective 'means of address'. This would include:

- Creating a resource for children and young people detailing how to challenge rights violations.
- Promoting child friendly complaints processes
- Creating a process to monitor, review and publish complaints,
- Advocacy support for children in relation to rights violations including where necessary access to legal support.

The Plan should also include a strategic action outlining how the plan will be monitored, reviewed, evaluated and updated. It is essential that the plan is fluid and responsive to new areas of concern or to capture the learning from existing/future processes such as:

- The Care Review
- The Mental Health Youth Commission
- The legacy of the Year of Young People 2018
- Investigations undertaken by the Children's Commissioner in Scotland e.g. Restraint and Seclusion in Schools.

The monitoring and review processes must involve children and young people to ensure their lived experiences are taken into account when evidencing the impact of the plan. The review and evaluation could be built into the strategic participation framework

The accountability for the delivery of the Action Plan should be transparent to all stakeholders.

Given the importance of the digital agenda within today's society consideration should be given to establishing a specific strategic outcome focused around the use of digital technology in relation to the promotion and protection of children's rights. Barnardo's Scotland would be happy to provide further comment upon request on how we have embraced digital technology in relation to furthering the rights of children and young people.



- 5 Are there any specific actions – not currently being progressed within a wider Scottish Government action plan, framework or other initiative, - that should be considered for inclusion within the Action Plan?

The Scottish Government should reflect on the actions listed within the previous Children’s Rights Action Plan – ‘Do the Right Thing’ published in 2009. Consideration should be given to progressing those actions which have not been fully implemented alongside consideration of the UN Committee 2016 ‘Concluding Observations’ in relation to areas of devolved matters in Scotland. Actions should be considered on the following recommendations from the UN Committee in 2016.

- Expanding legislation to provide protection of all children under 18 years of age against discrimination on the grounds of their age.
- Address the ‘intolerance of childhood’ and general negative public attitude towards children, especially adolescents, within society, including the media. (The Action Plan should seek to build on the legacy of the Year of Young People 2018).
- Prohibit the use of mosquito devices in public spaces.
- Systematically and regularly collect and publish data on the use of restraint and other restrictive interventions on children in order to monitor.
- Further develop comprehensive services to support children who are victims or at risk of sexual exploitation.
- Support and develop therapeutic community-based services for children with mental health conditions.
- Ensure clear child focus in poverty reduction strategies and action plans. (Promoting the rights of children should be central to the aspects of the benefits system devolved to the Scottish Parliament).
- Introduce a statutory duty for local authorities to provide safe and adequate sites for Travellers, while ensuring meaningful participation of Roma, Gypsy, and Traveller communities, including children, in planning and decision making processes.



- Provide children, including those with disabilities with safe, accessible, inclusive and smoking-free spaces for play and socialisation and public transport to access such spaces.

Given the breadth of legislation, policy and practices impacting on the lives of children and young people it is fundamental that the Children's Rights Action Plan is the 'go to' document for monitoring and reviewing progress towards promoting and protecting children's rights in Scotland. The Action Plan should contain electronic links to relevant actions contained within other Scottish Government plans, strategies, and frameworks. Those accountable for the delivery of the actions should be clearly identified alongside timescales for completion/review.

**For any queries or further information, please contact:**

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