

Education (Scotland) Bill

Stage 1 evidence from Barnardo's Scotland

Background

Barnardo's is the UK's largest children's charity; we work with some of the most vulnerable and disadvantaged children in Scotland; we run over 120 services and work with over 26,000 children, young people and their families every year throughout Scotland, many of these services provide essential support to families struggling with multiple adversities.

We have a number of services which provide support to children and young people with a wide range of additional support needs as well as providing support to children and young people in mainstream education who, for one reason or another, find school challenging.

We have provided evidence in relation to those sections of the Bill where we have direct experience of working with children and young people who would be affected by certain provisions. In particular we have commented on attainment and additional support for learning.

One of Barnardo's priorities is to improve the support given to an often hidden and unseen group of children and young people who are affected by parental imprisonment. We believe that the identification of and support provided to this group is currently inadequate. One of the ways we have identified to improve this is to ensure that all of these children are assessed for any additional support they may require in education once they have been identified. As such we think there is an opportunity to use this Bill to amend the Education (Additional Support for Learning) (Scotland) Act 2004 to take into account the needs of children affected by parental imprisonment.

1. Attainment

What improvements in attainment, in achievement and in reducing inequalities of outcome do you consider the Bill in itself could deliver? What would be a desirable level of improvement?

We support the provisions in the Bill and the aim to promote equity of attainment for disadvantaged children. A new duty to provide school education in a way that is designed to reduce the inequalities of educational outcome which result from socio-economic disadvantage is also welcome. We recognise that the aim of this duty as expressed in the Policy Memorandum is to improve the attainment of more disadvantaged children and young people. Much of the work that Barnardo's Scotland carries out in schools is aimed at supporting the children and young people that this Bill is intended to help. We work with children who face a range of adversities, from disability to substance misusing parents, but poverty serves to exacerbate all of these adversities. In our experience there is much good work that goes on in schools but this tends to be patchy and inconsistent even among schools in one local authority area. As such, at a minimum, we hope the Bill creates a legislative framework that allows for consistency in progress across Scotland.

Duties on education authorities and on Scottish Ministers should contribute to ensuring that services and support are designed with disadvantaged children and young people in mind. However it will be vital to ensure that processes are in place for robust and consistent identification of children at risk of or in socio-economic disadvantage. Duties to report on progress will ensure a certain level of scrutiny of decisions.

We believe an approach which puts the child at the centre and looks at the wider picture - not simply educational attainment or academic achievement - is the key to improving outcomes for all children and young people.

In our evidence to the Committee's Inquiry into Educational Attainment we highlighted that the Barnardo's Scotland approach is rooted in the principles of Getting It Right For Every Child (GIRFEC), based on an understanding of wellbeing, including all eight of the

SHANARRI indicators¹. In this definition, SHANARRI encompasses much more than academic attainment or achievement. By clearly identifying that achievement includes making sure a child has confidence and high self-esteem, as well as knowledge, a broader approach to improving attainment and achievement can be established in day to day work with a child.

It is for this reason that Barnardo's approach is to work with the child at the centre. This requires a holistic approach which looks at relationships both in and out of school. For example, when approaching an issue like bullying, we treat this as closely linked to a child's self-esteem and seek to work with parents to support them to remove any barriers to high self-esteem which may exist at home. We will also work with the school, whilst identifying and addressing any barriers that may exist within the school. A large part of the work we do is about building capacity, resilience and self-esteem in the children and young people we work with to enable them to succeed both in school and out of school. A crucial part of this is to work with parents who are central to the relationship the child has with the school.

We are of the view that many of the children and young people that this Bill is aimed at helping will require the type of holistic support provided by Barnardo's and other agencies. As such the success of the duty on education authorities will be based on how their approach to implementing it is founded on the GIRFEC principles and the provisions in the Children and Young People (Scotland) Act 2014. However, we have also argued in response to the consultation on the statutory guidance on parts 4, 5 and 18 the Act for the GiRFEC approach to early identification of wellbeing needs, and targeted interventions to address those needs, there needs to be a clearer understanding of the impact of socio- economic disadvantage. The Education (Scotland) Bill, if it could explicitly link community support for children with wellbeing needs under GIRFEC with efforts to tackle inequalities in educational outcome could be of major benefit.

The duty in the Bill is to 'have regard to the desirability' of 'reducing inequalities of outcome'. Is this meaningful enough to have the desired policy effect?

¹ <http://www.gov.scot/Topics/People/Young-People/gettingitright/background/wellbeing>

Whilst we are supportive of the intention of the duty the wording as it stands could be stronger. Education authorities and Scottish Ministers would have more direction if the duty is worded in such a way that education authorities and Scottish Ministers **must**, when making decisions of a strategic nature about how to carry out its functions relating to school education, take account of ways to reduce inequalities of outcome. This would ensure that there was no room for any ambiguity in policy formulation or strategic direction in relation to equality of outcomes for children and young people.

How should 'inequalities of outcome' be interpreted and should this phrase be defined in the Bill?

Our experience in delivering services to vulnerable children and young people demonstrate the many ways in which they are disadvantaged and multiple forms of adversity they can face. At the same time children and young people themselves will have different aspirations and different abilities. This is why it is crucial that the needs of every child are seen through the GIRFEC principles to ensure that their needs are identified and addressed. This should certainly be reflected in guidance. Any definition will necessarily need to be fairly high level but could be helpful in underpinning any further provisions in statutory guidance. It is important to remember that children and young people exist within families and communities and improving outcomes needs a whole systems approach.

The Bill's Policy Memorandum uses a range of terms that do not appear in the Bill, for example—

"promote equity of attainment for disadvantaged children"
"narrowing the attainment gap" (improving things for the poorest kids
the correlation between a child's "social deprivation/affluence and their educational attainment".

Do you consider that such terms are clearly defined and widely understood? Could the different terms used in the Policy Memorandum and in the Bill create any problems in delivering the policy objectives?

In our view this section of the Bill should simply be about; **identifying** those children and young people who are disadvantaged and struggling to get the most from their education; **planning** to meet the needs of these children to make sure they are not disadvantaged either at school or as a result of their home circumstances and **delivering** support that tackles this disadvantage. The most effective way of doing this, as we argued above, is to ensure that all children's services are using the GIRFEC principles in their approach to education and wider services for children and young people. GIRFEC provides a clear framework for practitioners but also forms the basis for an effective strategic approach to service delivery. There is a risk with multiple planning processes that there is duplication of effort and a lack of clarity in how support is delivered. As such it is important that interventions are linked to other relevant processes and in particular the Named Person established as part of the Children and Young People (Scotland) Act 2014.

The use of the terms outlined should be understood by all of those agencies working with a child particularly if an assessment of well-being is central to how they approach that work. Placing an emphasis on the poorest children is helpful because they will be the ones in greatest need and whose well-being is most at risk. Broader definitions for some of these terms could be set out in guidance.

Should the Bill contain sanctions in the event that the Scottish Government or local authorities fail to achieve the policy intention of reducing inequalities of outcome? If so, what sanctions would you suggest are appropriate?

A robust reporting framework should be the first step. Scottish Ministers and education authorities should be required to report publicly on steps taken and progress made and what further actions will be taken. We consider that clause 4(1)(c) and 4 (2)(c) could be strengthened to require Education Authorities and Scottish Ministers to report on specific aspects of progress, for example against key milestones in relation to literacy, numeracy and health and wellbeing. There is a need to develop a more consistent approach to the gathering of data and understanding how it can be used. We believe that this should form a key element of reporting requirements.

Do you have any views on the consultation and reporting requirements set out in this part of the Bill?

Barnardo's Scotland would question why pupils have not been included as category for consultation in relation to guidance in section 3 (2). We would ask that the Committee seek clarification on this point. Children and young people can provide valuable insight into their experience of education and learning and this should be considered in producing strong guidance. Working with pupils in schools we are very aware of the value that they can bring to improving the work of the school and the support that they need.

The Bill focuses on reducing inequalities of outcome resulting from pupils' socio-economic disadvantage. Should all examples of inequality of outcome be addressed?

Whilst it may be tempting to extend the focus of the Bill we believe that the focus on socio-economic disadvantage is correct. Given the increasing pressure on low income families as a result of cuts to the welfare budget it is likely that these children and young people will be further disadvantaged. As we have stated above it is important that the needs of all children are addressed through the GIRFEC principles and the Additional Support for Learning Framework to ensure that no child misses out on the support that they need.

2. Additional Support for Learning

Barnardo's Scotland is committed to promoting the full realisation of children's rights as laid out in the United Nations Convention on the Rights of Child (1989). We welcome the intention and commitment by the Scottish Government to extend the rights of children aged 12 and over with capacity within Additional Support for Learning legislation.

What will be the outcomes of extending rights under the Education (Additional Support for Learning) (Scotland) Act 2004 to children aged 12 and over with capacity? Please give practical examples.

Practical outcomes of extended rights.

- Children will be less reliant on their parents to pursue issues relating to their education. This is particularly important for

those children whose parents are not actively engaged with their education due to a range of factors e.g. their own negative experience of education, drug/alcohol addictions or family disputes.

- The views/opinions of children will become more integral to the planning and provision of their education. It is our experience that the views of the child are often lost when parents and local education authorities are in dispute regarding the child's education.
- The proposals will reduce potential conflicts of interest in disputes involving children who are accommodated by a local authority. Under current legislation education authorities would be required to lodge a reference against themselves as corporate parents in cases where there is a right to assess the Additional Supports Needs Tribunal for Scotland (ASNTS).
- The proposals will enable children (with capacity) to access a means of address i.e. ASNTS in situations where they believe their rights are not being respected.
- There should be increased opportunities/drivers to promote awareness and understanding of children's rights with agencies and professionals working across the wide spectrum of education.

Do you agree with the proposal that not all of the rights in the ASL legislation should be extended to children (see paragraphs 49 and 50 of the policy memorandum)?

Barnardo's acknowledges the complexity of the issues in relation to extending children's rights within additional support for learning due to the perceived tensions between parent's and children's rights. Barnardo's believes that sufficient safeguards are required to ensure that parent's rights do not override those of the child especially those children who have been assessed as having capacity and wish to use their extended rights.

We also believe that safeguards are required in relation to the ability for education authorities to refuse children access to the extended rights on the basis that by doing so would not be in the best interests of the child. The proposals create the likelihood that

children may be assessed as having capacity to understand/make a decision but then be denied the opportunity to do so due to the 'best interests' principle. Safeguards are required to ensure that 'best interests' decisions are not subjective and evidence based.

Barnardo's understands and accepts the reasoning behind not extending the right for children to make a placing request and access existing mediation services. Barnardo's agrees it could create a sense of unfairness should children with additional support needs have the right to make a placing request whilst other children potentially attending the same school do not have a similar right. Although the proposals do not enable children to access mediation Barnardo's support the intention to strengthen the voice of children within mediation processes between parents and local authority representatives.

What are your views on the statutory children's support service proposed by the Scottish Government?

Barnardo's welcomes the duty on Scottish Ministers to secure the provision of a support service for children aged 12 and over which would be available upon request and free of charge. From our experience the provision of this service will be fundamental to enabling children to exercise the extended rights proposed within the Education (Scotland) Bill 2015. Our consultation with looked after and accommodated children in relation to these proposals has highlighted the importance that children place on access to independent advocacy to help them access information, ensure that they understand their rights, enable their views to be heard within decision making processes and where necessary make a complaint/representation. We also support the intention to enable children to access legal advice/assistance through the children's support service. We believe that careful consideration is required with regard to sufficiently resourcing the service to ensure that children have equality of access.

3. Amending The Education (Additional Support for Learning) (Scotland) Act to take into account children affected by parental imprisonment

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

parent², 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

Staff in our services working with children affected by parental imprisonment describe them as suffering confusion, isolation, stigma, secrecy, social exclusion, poverty, loss, bereavement and trauma among a raft of other things. These experiences reflect the international research on children 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.

Currently under the Additional Support for Learning framework, assessments within schools identify the specific needs of the individual child so that the correct level of support can be provided.

Barnardo's Scotland believe that the Bill should be amended to place a presumption within the Education (Additional Support for Learning) (Scotland Act) 2004 that children affected by parental imprisonment will have additional support needs. This however will be subject to an appropriate assessment being undertaken, and concluding that the child does have such needs. This amendment to the 2004 Act is necessary to ensure that parental imprisonment is explicitly highlighted as a risk factor that could indicate the need for assessment and subsequent additional support. Parental imprisonment should be one of the triggers for assessment as it can

² Scottish Government Justice Analytical Services (2012) 'Freedom of Information request' from Dr Chris Holligan, 26 January 2012

often be a pre-cursor to other issues requiring support such as truancy, falling educational attainment, behavioural problems and so on.

For more information or clarification of any of the points in this evidence contact Mark Ballard, Head of Policy Barnardo's Scotland
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