

Barnardo's Scotland response to the consultation on Draft Statutory Guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act, 2014

We welcome the opportunity to comment on the draft statutory guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014.

We were very supportive of the aims of the Children and Young People (Scotland) Act 2014, and the plan to put into law corporate parenting duties.

As a whole the draft guidance is clear, coherent and well drafted, and we welcome and recognise the work of the Centre for Excellence for Looked After Children (CELCIS) in supporting the production of this guidance.

Q1) Do you feel this draft guidance provides clarity about what corporate parenting is, and how corporate parents are supposed to exercise their duties?

The guidance generally provides clear and detailed information about what corporate parenting is and identifies what corporate parents are expected to do in order to exercise their duties.

We welcome the clarity in paragraph 46 of the guidance that corporate parenting duties apply regardless of placement type. This is very important in ensuring that the needs of young people who are or were looked after at home or looked after in kinship care are properly recognised by corporate parents.

We do, however, believe that the guidance around how corporate parents are supposed to exercise their duties could be strengthened in one area. Paragraph 51 of the section of the guidance covering local and national application of Part 9 states that *"To ensure a young person continues to receive the same standard of care or service as they would have received if they had remained in the care of the placing home local authority and its partners, corporate parents may wish to enter into agreements with the receiving local authority and health board about the provision of services or support"*.

We would like to see this sentence broken up to allow greater clarity on the two distinct issues covered by this passage. First, it needs to be clear, as a principle, that a looked after or formerly looked after young person who has moved, or been placed, outwith the area of the local authority that is their corporate parent **must** receive at least the same standard of care or service as they would have received if they had remained in the placing/home local authority area. Secondly, it needs to be clear whether it is optional for corporate parents to enter into agreements with the receiving local authority and health board about the provision of services or support, as the paragraph seems to suggest, and, if it is optional, what happens with respect to the

provision of these services for the looked after or formerly looked after young person if such an agreement is not in place.

Also, as it stands, parental rights get more direct reference than children's rights in the guidance. We would like to see more discussion of what a rights-based approach to corporate parenting would look like, and information about how children and young people will be informed of their rights with respect to corporate parenting. Greater clarity is required over how Part 9 links with Part 1 (Children's Rights) of the Act.

Q2) Do you agree with the definition of corporate parenting?

We agree with the definition of corporate parenting set out in paragraph 21 of the draft guidance and welcome the development of a statutory definition for the first time in Scotland.

Q3) Is the draft guidance clear about how different corporate parents, in view of their other functions, should assess the wellbeing of looked children and care leavers?

Although there is mention of the child's plan in paragraph 63 and 65, we would like to see greater clarity on the expected relationship between the proposed wellbeing assessments and the Children's Services Planning process, when a general assessment is being carried out by a corporate parent, and with the child's plan when an individual assessment is being carried out of the wellbeing of a looked after or formerly looked after person under the age of 18.

Will corporate parents be partners in the Child's Plan, and if so how will that relationship work? Conversely, how will information from any individual wellbeing assessment of a looked after or formerly looked after person under the age of 18 undertaken by a corporate parent be fed into the Child's Plan? Will corporate parents that provide services to looked after or formerly looked after children and young people, who undertake a wellbeing assessment but are not one of the partner agencies involved in developing the Child's Plan, become involved in some way?

Equally, the whole population wellbeing assessments carried out by corporate parents that cover people under 18 should feed into and be reflected in the children's services planning process, where that process is discussing the wellbeing of looked after or formerly looked after children in the area covered by the plan.

Q4) Are there sections of the guidance which you feel need to be expanded?

The draft guidance frequently refers to the importance of seeking the views of looked after children and young people and care leavers and taking their voice into account. This is in line with Article 12 of the UNCRC which relates to respecting the views of the child. It is important the recognition in para 46 that corporate parenting duties apply regardless of placement type also clearly extends to consultation and participation, by ensuring that the views of young people who are or were looked after at home or looked after in kinship care are sought and listened to.

Paragraph 64 of the section on assessing the needs of children and young people for services and support states "A general assessment of population

need will also be sufficient for those corporate parents (such as the Police and Universities) who provide services directly to children and young people but who are unable to identify looked after children or care leavers". We are surprised at the inclusion of Universities as an example of an organisation that would be unable to identify care leavers, given this information could and should be gathered in the application process. However, more generally, the guidance should be clarified so that reference to a general assessment of population need being sufficient is only in reference to those corporate parents who are not able to immediately identify the needs of children and young people who present to their services—but it does not exempt corporate parents from undertaking individual assessments of need for those children and young people who use their services. As it stands paragraph 64 seems to undermine the strength of paragraphs 62 and 63.

For more information please contact

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