

PAS response to the Scottish Parliament consultation on the revised National Guidance for Child Protection in Scotland

Date submitted: 29 January 2021

Q1: Advice and Accessibility

This guidance seeks to provide advice to local partnerships and agencies to inform the development of local guidance, and has been structured in sections that are intended to be standalone and accessible to practitioners seeking advice on particular aspects of practice.

a) In your view, does the guidance fulfil these objectives?

To some extent

b) If you do not think the guidance fully fulfils these objectives, or if any sections are not sufficiently standalone please explain your view and suggest how improvements could be made.

There are a number of ways in which this guidance could be made more accessible; these relate to easy access and linkage within the document and outwith it; jargon and language; and materials and resources for parents and carers.

Easy access and linkage

Of necessity, this is a long document and will be a working document which many practitioners should be using and referring to on a regular basis. Inevitably there will be some sections which are in everyday usage and others which will be used infrequently. To facilitate ease of use, sections should be internally hyper-linked as well as linked to external resources such as practice guidance and training materials. It may be that an online hub which is a repository for these materials should be developed for use by practitioners across sectors.

In particular, as a partnership of organisations working with families, we would like to stress the importance of materials which explain child protection for families being part of the guidance. The guidance should stress that parents and carers and children are an integral part of the process and should be involved and have a voice at every stage; in order for this to happen they must understand the process. Currently, the organisations in PAS report that many families become subject to child protection without a clear understanding of its operation and their rights and responsibilities within the system.

Language and jargon

Inevitably for a document which addresses a range of different professions, there is language and jargon which will be understood by one professional group but not by another. Trialling the guidance with a range of professional groups to identify which terms are not understood, and then using the results of this trialling to create interactive links within the guidance to a glossary of terms would be a useful exercise to improve accessibility.

Materials for parents and carers

As we said earlier, many parents and carers enter the child protection system without a clear understanding of the process, and in order to have their rights respected and be able to meaningfully participate in the process it is essential that a suite of resources should be developed. It is our understanding that this is the case and we welcome this, but would draw attention to the needs of particular groups of parents and carers.

There are certain groups of parents and carers who need more tailored information. In particular, parents with a learning disability are far more likely to enter the child protection system and to have their children removed. Parents and carers with learning disabilities require easy reading resources or video content to explain child protection system. Additionally it is likely that they will need advocacy services to represent them. Speakers of other languages and migrant communities will need resources in other languages to ensure their understanding of the child protection system. Some languages are commonly spoken but not necessarily read by their speakers (for example, Urdu) and so spoken resources should also be considered as an option.

Q2: Legislative and Policy Development

This revised guidance seeks to reflect legislative and policy developments since 2014 and include relevant learning from practice and research.

a) Are you aware of any additional legislative or policy developments, research or practice that should be included?

To some extent

b) If so, please provide further details.

The following legislation should be included within the legislative context section in Part 1 of the guidance and within the appendix:

- **The Domestic Abuse (Scotland) Act 2018**
 - The effect of domestic abuse on children is a child protection issue whether the child is the subject of the abuse or not. Domestic abuse and coercive control can have a severely deleterious impact on children and this needs to be recognised and referenced within the guidance so that children are protected from the effects of domestic abuse.
- **The Children (Equal Protection from Assault) (Scotland) Act 2019**
 - It is important that this new legislation, which came into force in November 2020, should be included. It gives children equal protection from assault under Scots Law to adults, removing the defence of ‘reasonable chastisement’.
 - Reference to the legislation should be accompanied by reference to the Equally Protected research¹ by Dr Anja Heilmann, Professor Yvonne Kelly and Professor Richard Watt (UCL Institute of Epidemiology and Health) which illustrates clearly that there is ample evidence that physical punishment can damage children and escalate into physical abuse.
- **Children (Scotland) Act 2020**
 - Covering contact, residence, contact centres and Children’s Hearings, this legislation needs to be included within the guidance. Contact through the courts means that a more amicable resolution has not been possible between the two former partners, and therefore conflict is more likely with the child caught in the centre. An understanding of this dynamic and the need for children’s voices to be clearly heard in contact proceedings and in support thereafter needs to be understood, and we suggest that there should also be references to relevant research such as the evidence review of court enforcement orders² and the work of Morrison et al on children’s participation rights in contested contact cases³.

UNCRC

While the UNCRC has not yet become law, it is currently progressing through the Scottish Parliament and is expected to become law in this Parliamentary term. The UK has also signed up to its provisions.

¹ <https://learning.nspcc.org.uk/research-resources/2015/equally-protected>

² <https://www.gov.scot/publications/court-enforcement-child-contact-orders-review-evidence-international-jurisdictions/pages/4/>

³ Manipulation and Domestic Abuse in Contested Contact – Threats to Children’s Participation Rights, Morrison et al, <https://onlinelibrary.wiley.com/doi/abs/10.1111/fcre.12479>

An understanding of children’s rights should underpin this document as well as professional practice. There should be reference to documents and training materials which give a clear overall understanding of the UNCRC as a whole as well as specific references to particular articles and general comments where appropriate.

Poverty

Poverty is an important factor in child protection cases, and we know that parents from poorer backgrounds are disproportionately more likely to be subject to child protection measures and ultimately more likely to have their children removed. To some extent, this is referenced in the guidance in the section on neglect (though the impact of poverty has a wider resonance in child protection than simply neglect and could be referenced more throughout the document). To gain a greater understanding of this, the Child Welfare Inequalities Project research papers⁴ of Bywaters et al should be included.

The Independent Care Review

The work of the Independent Care Review has been seminal in recent years in increasing our understanding of families’ needs and of how they wish to be treated. The Scottish Government has agreed to implement The Promise and is now working towards this. One of the key tenets of The Promise is that where possible families should be enabled to stay together. In the Plan, it states that:

“Family: Where children are safe in their families and feel loved they must stay – and families must be given support together, to nurture that love and overcome the difficulties which get in the way.

Care: Where living with their family is not possible, children must stay with their brothers and sisters where safe to do so, and belong to a loving home, staying there for as long as needed.”⁵

Further Article 9 of the UNCRC states that:

“Children must not be separated from their parents against their will unless it is in their best interests (for example, if a parent is hurting or neglecting a child). Children whose parents have separated have the right to stay in contact with both parents, unless this could cause them harm.”⁶

An understanding of the findings of the Independent Care Review in terms of what helps and hinders families and what assistance they need to stay together is critical to sound child protection practice that respects families while ensuring that children are protected. References to the Independent Care Review should be added to the

⁴ <https://www.coventry.ac.uk/research/research-directories/current-projects/2014/child-welfare-inequality-uk/>

⁵ https://www.carereview.scot/wp-content/uploads/2020/02/The-Plan_pages.pdf

⁶ https://www.unicef.org.uk/child-rights-partners/wp-content/uploads/sites/3/2016/08/CRC_summary_leaflet_Child_Rights_Partners_web_final.pdf

Child Protection Guidance and to any associated training materials, and we believe are critical to developing an understanding of child protection through the lens of children and families.

Q3: GIRFEC Practice Model

Our aim is to ensure that the guidance is fully integrated with the language and core components of the Getting it right for every child (GIRFEC) practice model.

a) Do you think the revised National Guidance for child protection is integrated with the GIRFEC practice model?

To some extent

b) Please explain your answer.

The guidance and the GIRFEC practice model need to be more integrally linked and cross-referenced throughout the document. Some explanation of the GIRFEC materials and practice would be helpful as well as reference to how a continuum of support from universal services to more targeted services should be used to support families with the intention of keeping families together wherever possible.

There remains some confusion about the position of The Named Person after the Supreme Court judgement among both parents and carers as well as some professionals with many thinking that the role itself is illegal; in some areas and instances, this has prevented GIRFEC working as intended and in a beneficial way for parents and carers. This confusion needs to be addressed, primarily within the GIRFEC practice model but also here within the Child Protection guidance and particularly in any resources which are intended for parents and carers.

Q4: Practices and Processes

Part 3 seeks to accurately and proportionately describe the practice and processes critical in the protection of children.

a) Are there any practices or processes that are not fully or clearly described in the guidance?

To some extent

b) If so, please state which processes/practices are not fully or clearly described and suggest how the description could be improved.

Parents with learning disabilities are disproportionately more likely to have their children removed. This should be recognised in the guidance and consideration given to explaining the challenges faced by parents with a learning disability and how these may be overcome with appropriate support. There needs to be more guidance

about the accessibility of child protection procedures for these parents and about communications with parents with learning disabilities including the use of advocacy where necessary. Easy read and accessible information for parents and carers is an essential component of this and should be developed and referenced within this guidance. The guidance should reference the Scottish Commission for People with a Learning Disability (SCLD) Good Practice Guidelines to Supporting Parents with a Learning Disability⁷, to assist practitioners working with parents with learning disabilities or learning needs

Q5: Assessment Section

A new section of this National Guidance (Assessment part 2b) provides advice about child protection assessment practice.

a) Is this section sufficiently clear and does it cover all of the aspects you would expect?

To some extent

b) If no or to some extent, please suggest how this section could be improved

There is very little reference to the use of parenting capacity assessments and these remain widely variable across local authorities. There needs to be more consistent practice in relation to this and we would welcome clearer guidance in relation to this.

Q6: Description of child protection processes and procedure

This National Guidance covers the consideration, assessment, planning and actions that are required, when there are concerns that a child may be at risk of harm. It also provides direction where child protection procedures are initiated. This is when Police, Social Work or Health determine that a child may have been abused or may be at risk of significant harm and an Inter-agency Referral Discussion (IRD) will take place.

a) Are the processes and procedures that lead to and follow IRD clearly described

To some extent

b) Please provide additional comments.

This section is clear and is well linked to GIRFEC. We welcome the inclusion and recognition of strengths-based approaches and the move away from a deficit

⁷ https://www.sclld.org.uk/wp-content/uploads/2015/06/Supported_Parenting_web.pdf

approach. Including examples of children who appear to be resilient or independent but may be struggling is helpful.

Q7: Integration of health guidance

We have integrated previously separate guidance for health practitioners into the revised guidance and more clearly defined the key role of health in protecting children at risk of harm from abuse or neglect.

Do you have any comments on specific aspects for health practitioners?

We welcome this as health professionals are generally the universal service most trusted by families, particularly in the early years, and play a key role in both preventative work and in child health surveillance. To have guidance for health professionals integrated into national guidance should aid multi-agency working, practice and understanding which in turn should encourage appropriate inter-agency information sharing.

Q8: Neglect

The draft National Guidance defines ‘neglect’ as child abuse, where it: “Consists in persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health or development. There can also be single instances of neglectful behaviour that cause significant harm. Neglect can arise in the context of systemic stresses such as poverty and is an indicator of support needs.”

a) Do you agree with this definition?

To some extent

b) Please provide additional comments.

We welcome the additional emphasis in the Child Protection guidance on poverty which we know can significantly increase a child’s likelihood to enter the child protection system. It is particularly important at a time when pre-pandemic 1 in 4 children were living in poverty, and we know that this number is steadily increasing as a result of the pandemic. Nonetheless we are concerned that there is still in practice a conflation of neglect that is wilful and deliberate and that which is consequent upon ‘systemic stresses such as poverty’. This can be difficult to distinguish in practice and families are often unwilling to disclose because of stigma and shame.

The relationship between poverty and neglect is complex and can be difficult to disentangle. Our member organisations report severe and growing levels of poverty in their work with families, poverty which is sometimes only disclosed after working with a family for some time, which illustrates the need for sensitive, relationship-

based practice. Member organisations also tell us that the families they work alongside are neither abusive nor neglectful but struggle to provide adequately for their children because of poverty.

There needs to be additional anti-poverty guidance and training for practitioners that enables them to identify poverty and work with families to access the financial and other support they require. In many cases providing the structural and financial help needed can be key to engagement when families see that their very real problems are being addressed.

Q9: Neglect

Recognising that it is a complex area we also include some discussion about whether neglect should be defined as abuse where it is “a consequence of systemic stresses such as poverty.”

a) Do you agree with this approach?

To some extent

While there is some discussion on this, it is separate from the section on neglect at paragraphs 41 to 44 which make no reference to the role of poverty in not being able to provide for children. The discussion is useful only in so far as it changes practice which is unlikely unless the discussion is linked specifically to the section on neglect. We believe that these paragraphs need full and clear references back to the section on poverty and a warning that poverty, neglect and abuse cannot be conflated.

Many families living in poverty need is help and support rather than child protection. A social model of child protection that recognises how structural and economic issues impact on families will enable practitioners to work with families based on their needs. Appropriate practice guidance on how this can be achieved is needed.

Our members have pointed out that a family's poverty is not always clear at the outset of a situation and may change over time as a result of circumstances changing. So, for example, a family where a family member goes into prison may find that initially their financial circumstances do not change but that as time goes on that change impacts further, because, for example, the parent can no longer go on working or needs to find more suitable accommodation. Similarly how many families present may not give an indication of their true financial circumstances where, for example, the results of job loss are cushioned for some time by savings, or where what appears to be adequate material provision is, in fact, provided by rising debt or by family subsidy.

Q10: Pre-birth assessment and support

Part 4 of the National Guidance sets out the context in which action is required to keep an unborn baby safe. Part 3 sets out the processes for this.

a) Do these parts of the guidance clearly and fully set out the context and processes?

Yes

b) If answering To Some Extent or No, please detail why.

We welcome the commitment to engagement with underserved families and the recognition that there are certain categories of families who will need specific tailored support and that this may, in some cases (for example, learning disabled parents) may be long-term sustained support.

Q11: Specific areas of concern (Part 4)

a) Do all sections of Part 4 of the National Guidance address the specific areas of concern appropriately?

To some extent

b) Please let us know any sections you do not think address the specific area of concern appropriately and suggest how these could be improved.

The categories are very comprehensive and cover a wide range of specifics. This should be an iterative part of the document that is updated regularly with links to good practice guidelines and sources of expertise.

We refer you to the responses of our members: Aberlour; Contact; Families Outside; One Parent Families Scotland and Scottish Families Affected by Alcohol and Drugs for their comment on specific groups.

Q12: Implementation

The Scottish Government considers that Chief Officer Groups and local Child Protection Committees, supported by Child Protection Committees Scotland, the Scottish Government and a range of other partners, are the key fora for implementation of this Guidance.

a) Do you agree or disagree?

Agree

b) Please explain your answer.

We would agree with this while stressing that third sector organisations should always be part of this process. These fora should develop opportunities for multi-agency training.

Q13: COVID-19

During the COVID-19 pandemic, it has been necessary to adapt practice to ensure continuity of child protection processes. Learning from the pandemic and examples of best practice will be incorporated into the National Guidance.

a) Are there adapted processes that you would like to see continued?

To some extent

b) Please provide further information

Our members are unsure on this given that it is too early to assess the outcomes of adaptations of practice in relation to Covid-19. Some practices and ways of communicating seem to be more acceptable to some families while the lack of face-to-face contact is undoubtedly difficult for both practitioners and families. We would urge that research is undertaken to examine changing practices during the pandemic and how they have been experienced by families and practitioners.

Q14: Do you have any further comments on the National Guidance?

No