

## Protecting Scotland's Children and Young People – National Policy

The Scottish Government wants every child in Scotland to grow up loved, safe and respected, so that they reach their full potential. ”

How we protect our children and young people is fundamental to enabling them to reach their full potential, by allowing each child to be safe; healthy, achieving, nurtured, active, respected, responsible and included.

- One of the three founding principles of [The United Nations Convention on the Rights of the Child](#) is a **child's right to protection**.
- This principle of protection runs through every aspect of Scotland's "Getting it right for every child" (GIRFEC) approach. (Summarised in [My World Triangle](#))
- The GIRFEC approach, which puts the child at the centre, is the route to achieving our national outcome for Scotland's Children and Young People:

The Scottish Government's vision of how we protect Scotland's children and young people is one that keeps children safe from abuse and neglect by placing the wellbeing of Scotland's children at the heart of everything we do. This will be achieved by policy and practice which:

- is embedded with Getting it right for every child (GIRFEC)
- recognises that GIRFEC requires a public health model which prioritises universal provision
- is underpinned by prevention, recognising that: early intervention and partnership working is the best protection; child wellbeing and protection is a collective responsibility and it is people not policies who protect children
- engages with families early and listens to children, young people and families in order to provide the right support at the right time
- enables practitioners to make the right decisions at the right time to protect children where support is not working
- is transparent and learning, using evidence to effect practice improvements
- values and supports the workforce
- supports those who have been in the child protection system transition into adulthood and enables them to have the same outcomes as other children and young people

## Approach

The [Getting It Right For Every Child](#) (GIRFEC) approach is a framework which supports services to identify what children and families need to help children grow and develop. GIRFEC:

- **is *child-focused*.**  
It ensures the child or young person – and their family – is at the centre of decision-making and the support available to them.
- **is based on an understanding of *the wellbeing of a child*.**  
It looks at a child or young person's overall wellbeing – how safe, healthy, achieving, nurtured, active, respected, responsible and included they are – so that the right support can be offered at the right time.
- **is based on *tackling needs early*.**  
It aims to ensure needs are identified as early as possible to avoid bigger concerns or problems developing.
- **requires *joined-up working*.**  
It is about children, young people, parents, and the services they need working together in a coordinated way to meet the specific needs and improve their wellbeing.

GIRFEC is for all children and young people because it is impossible to predict if/when they might need extra support.

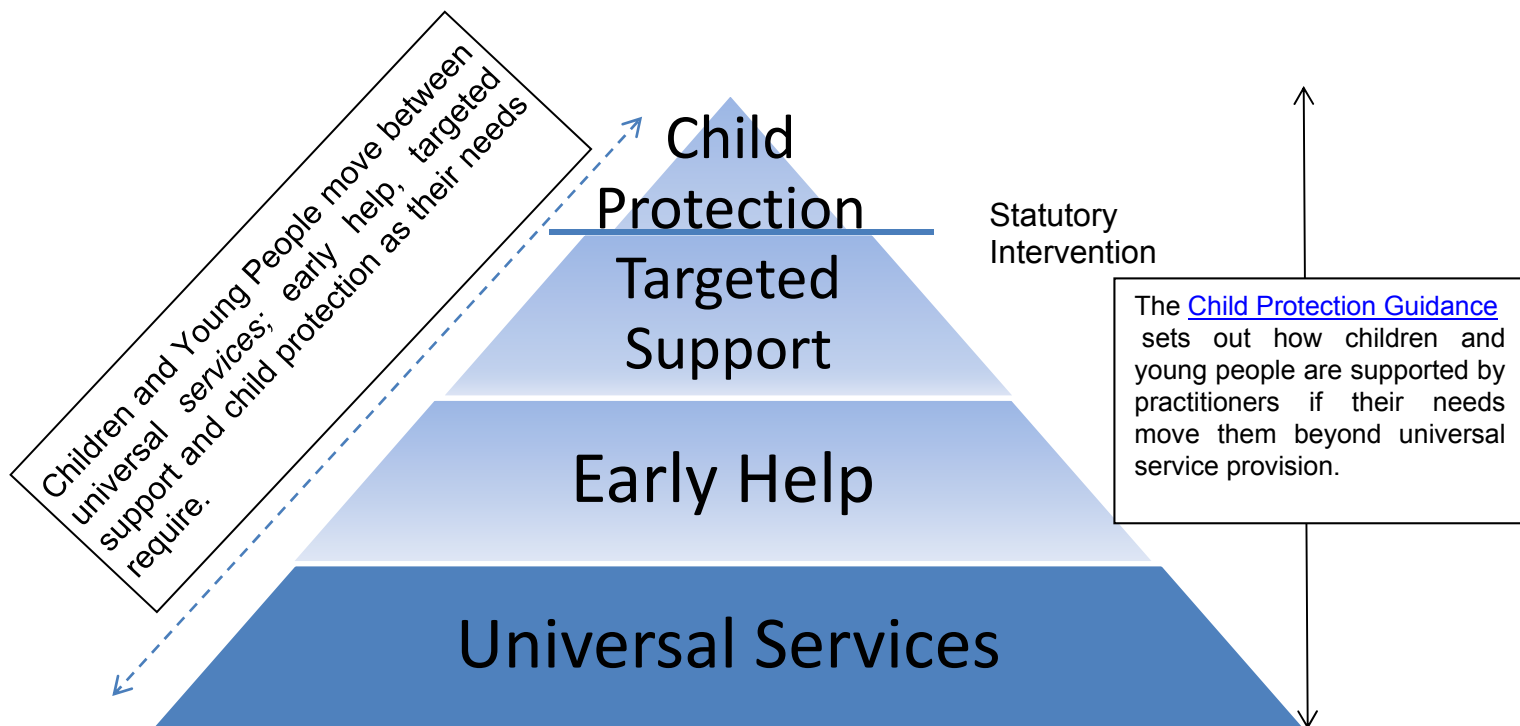
Taking a universal, public health approach, it helps us set out how people working with children, young people and parents understand and consider a child or young person's [wellbeing](#); that children, young people and families can expect [services to work together](#) to provide support and help; and provides that children and young people who need extra support which is not generally available will have a [Child's Plan](#).

The majority of children and young people will receive all the help they need from their families, supported by universal services to keep them safe. Some others may have a bit of early help such as a parenting support group which might be run by the local nursery or health visiting service. Some may require a bit more targeted help which could include some voluntary social work services to help establish routines or support a family through a particularly difficult time.

For a few, where there is a concern that the child has been or is likely to be harmed, services, usually led by police and social work, will put in place an emergency plan to keep the child safe whilst a child protection investigation and assessment takes place to determine what on-going support is necessary to keep the child safe.

Statutory intervention is when a child is made subject to a legal order through the [Children's Hearings](#) system. This happens when a child is in need of specific help and a legal order is necessary to ensure that they get the support that they need.

Families require different support at different times in their lives and how much and the type of help they will need will be determined by the amount and quality of the informal support they have and the challenges that they face.



### **Different Departments, Different Responsibilities – but a common responsibility to keep children safe**

There are a range of policies across Government which aim to protect Scotland's children and young people from their earliest years to when they become school leavers.

The Children and Families Directorate is the main department responsible for policies on children and young people. There is a Youth Justice team that sits within the Directorate which links into the Justice Directorate. The Learning Directorate is responsible for education policies; the Health and Social Care Integration Directorate is responsible for health policies, however the Children and Families Directorate does lead on particular family-services policies that are related to the health and well-being of children and young people; the Housing and Social Justice Directorate is responsible for policies related to housing and child poverty; and the Advanced Learning and Science Directorate is responsible for youth employment and skills. All government departments should consider how their policies might impact on children and young people and many have policies in place related to protecting children and young people whether from the Safer Communities Directorate to Culture, Tourism and Major Events to Population Health.

While departments hold responsibility for certain policies, they work across government with other departments and external stakeholders to develop and deliver these policies and ensure the protection of Scotland's children and young people.

## **SUPPORTING POLICIES BY DEPARTMENT**

### **Advanced Learning and Science**

#### **Developing the Young Workforce - Scotland's Youth Employment Strategy (2014-2021)**

[www.gov.scot/Publications/2018/01/6968](http://www.gov.scot/Publications/2018/01/6968)

#### **Our ambitions for improving the life chances of young people in Scotland: National Youth Work Strategy (2014-2019)**

[http://www.educationscotland.gov.uk/Images/YouthWorkStrategy181214\\_tcm4-823155.pdf](http://www.educationscotland.gov.uk/Images/YouthWorkStrategy181214_tcm4-823155.pdf)

#### **Scotland's Youth Employment Strategy (2012)**

<http://www.gov.scot/Publications/2012/06/9210>

### **Children and Families Directorate**

#### **Baby Boxes**

<https://beta.gov.scot/policies/early-education-and-care/baby-boxes/>

#### **Family Nurse Partnership**

<https://beta.gov.scot/policies/maternal-and-child-health/family-nurse-partnership/>

#### **Getting it Right for Every Child**

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

#### **Independent Care Review**

<https://beta.gov.scot/news/launch-of-independent-care-review/>

#### **Realigning Children's Services**

<http://www.gov.scot/Topics/People/Young-People/realigning-childrens-services>

#### **Best Start: A Five-Year Forward Plan for Maternity and Neonatal Care in Scotland**

<http://www.gov.scot/Resource/0051/00513175.pdf>

[Framework in Maternity Care](#)

[Quality Framework for Neonatal Care published in Scotland](#)

#### **Children and Young People Improvement Collaborative**

<https://beta.gov.scot/policies/improving-public-services/children-and-young-people-improvement-collaborative/>

#### **National Action Plan on Internet Safety for Children & Young People (2017)**

<http://www.gov.scot/Publications/2017/04/1061>

#### **Trafficking and Exploitation (2017)**

<http://www.gov.scot/Publications/2017/05/6059>

**Respect for All: A National Approach to Anti-Bullying for Scotland's Children and Young People (2017)**

<http://www.gov.scot/Publications/2017/11/6766>

**Scotland's National Action Plan to Prevent and Tackle Child Sexual Exploitation Update (2016)**

<http://www.gov.scot/Publications/2016/03/4765>

**Youth Justice Strategy - Preventing Offending: Getting it right for children and young people (2015-2020)**

<http://www.gov.scot/Publications/2015/06/2244>

**Universal Health Visiting Pathway in Scotland (2015)**

<http://www.gov.scot/Publications/2015/10/9697>

**Getting It Right For Looked After Children And Young People Strategy (2015)**

<http://www.gov.scot/Publications/2015/11/2344/0>

**Play Strategy for Scotland: Our Vision (2013)**

<http://www.gov.scot/Publications/2013/06/5675>

**Play Strategy for Scotland: Action Plan (2013)**

<http://www.gov.scot/Publications/2013/10/9424/0>

**National Parenting Strategy: Making a positive difference to children and young people through parenting (2012)**

<http://www.gov.scot/Publications/2012/10/4789>

**Improving Maternal and Infant Nutrition Framework (2011)**

<http://www.gov.scot/Publications/2011/01/13095228/0>

**Early Years Change Fund (established in 2011)**

<http://www.gov.scot/Topics/People/Young-People/early-years/leadership>

**Getting it Right for Young Carers: The Young Carers Strategy for Scotland (2010)**

<http://www.gov.scot/Resource/Doc/319441/0102105.pdf>

**Valuing Young People (2009)**

<http://www.gov.scot/Publications/2009/04/21153700/0>

**Early Years Framework (2009)**

<http://www.gov.scot/Publications/2009/01/13095148/0>

**Economic Development**

**Skills for Scotland: Accelerating the Recovery and Increasing Sustainable Economic Growth (2010)**

<http://www.gov.scot/Publications/2010/10/04125111/0>

## **Fair Work, Employability and Skills**

### **Opportunities for All (2012)**

<http://www.gov.scot/Publications/2012/11/7618>

### **16+ Learning Choices: Policy and Practice Framework: supporting all young people into positive and sustained destinations**

(<http://www.gov.scot/Resource/Doc/308354/0097118.pdf>)

### **More Choices More Chances: A Strategy to Reduce the Proportion of Young People Not in Education, Employment or Training**

(<http://www.gov.scot/Publications/2006/06/13100205/0> )

## **Healthcare Quality and Improvement**

### **A Framework for the Delivery of Palliative Care for Children and Young People in Scotland (2012)**

<http://www.gov.scot/Resource/0040/00408254.pdf>

### **The Healthcare Quality Strategy for NHSScotland (2010)**

<http://www.gov.scot/publications/2010/05/10102307/0>

## **Health Workforce and Strategic Change**

### **Everyone Matters: 2020 Workforce Vision**

<http://www.gov.scot/Publications/2013/06/5943/0>

## **Health and Social Care Integration**

### **The Best Start: A five year forward plan for maternity and neonatal care in Scotland (2017)**

<http://www.gov.scot/Publications/2017/01/7728>

### **Right Diagnosis, Right Treatment, Right Team, Right Place: The Cancer Plan for Children and Young People in Scotland (2016)**

<https://www.youngcancer.scot.nhs.uk/admin/js/libs/tinymce/plugins/moxiemanager/data/files/cancer%20plan%20FINAL%2002.02.16.pdf>

### **eHealth Strategy (2014-2017)**

<http://www.gov.scot/Publications/2015/03/5705>

### **Better Health, Better Care National Delivery Plan for Children and Young People's Specialist Services in Scotland (2009)**

<http://www.gov.scot/Publications/2009/01/16113840/0>

**The Better Health Better Care Action Plan (2007)**  
<http://www.gov.scot/Publications/2007/12/11103453/0>

## **Housing and Social Justice**

**Fairer Scotland Action Plan (2016)**  
<http://www.gov.scot/Publications/2016/10/9964>

**Homes Fit for the 21st Century: The Scottish Government's Strategy and Action Plan for Housing in the Next Decade (2011-2020)**  
<http://www.gov.scot/publications/2011/02/03132933/0>

**Achieving Our Potential: A Framework for Tackling Poverty and Income Inequality in Scotland (2008)**  
<http://www.gov.scot/publications/2008/11/20103815/0>

## **Learning**

**National Improvement Framework for Scottish Education (2016)**  
<http://www.gov.scot/Resource/0049/00491758.pdf>

**Curriculum for Excellence (2012)**  
<http://www.educationscotland.gov.uk/thecurriculum/whatiscurriculumforexcellence/>

## **Local Government and Communities**

**Equally Safe delivery plan 2017-2021**  
<https://beta.gov.scot/publications/equally-safe-delivery-plan-scotlands-strategy-prevent-violence-against-women/>

**Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation (2016)**  
<http://www.gov.scot/Resource/0049/00493752.pdf>

**Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls (2014)**  
<https://blogs.gov.scot/equally-safe/wp-content/uploads/sites/18/2016/03/ES-update-18-April1.pdf>

## **Safer Communities**

**National Missing Persons Framework for Scotland (2017)**  
<http://www.gov.scot/Publications/2017/05/1901>

**Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland (2009)**

<http://www.gov.scot/Publications/2009/03/18112243/0>

## **Population Health**

### **Mental Health Strategy (2017-27)**

<http://www.gov.scot/Publications/2017/03/1750>

### **The Road to Recovery: A New Approach to Tackling Scotland's Drug Problem (2008) and refreshed Substance Misuse strategy (due 2018)**

<http://www.gov.scot/publications/2008/05/22161610/0>

### **Pregnancy and Parenthood in Young People Strategy (2016)**

<http://www.gov.scot/Publications/2016/03/5858>

### **Changing Scotland's Relationship with Alcohol: A Framework For Action (2009)**

<http://www.gov.scot/Publications/2009/03/04144703/0>

## **Legislative Framework**

There is a strong legislative framework which protects children and young people.

### **Domestic Abuse Bill (Scotland) Act 2018**

<http://www.legislation.gov.uk/asp/2018/5/contents/enacted>

The Act provides for a new statutory criminal offence of domestic abuse which, when it comes into force, will cover all the types of behaviour that can constitute domestic abuse. Crucially, this includes psychological harm as well as physical harm. While physical harm can be prosecuted using, for example, common law assault and overt threats can be prosecuted using e.g. the offence of threatening or abusive behaviour, psychological harm can be very challenging to prosecute using existing laws.

The Act also makes a number of associated reforms to criminal procedure, evidence and sentencing relating to the creation of an offence of domestic abuse to enhance protection for victims.

### **Child Poverty (Scotland) Act 2017**

<http://www.legislation.gov.uk/asp/2017/6/introduction/enacted>

The Act sets in statute ambitious income related targets to reduce levels of child poverty by 2030 and establishes Scotland as the only part of the UK to have taken this step. The Act places duties on Ministers to publish Child Poverty Delivery Plans in 2018, 2022 and 2026, and sets out annual reporting requirements for Ministers, local authorities and health boards.

The Act also establishes a statutory Poverty and Inequality Commission from July 2019, who will provide advice and challenge to Ministers on efforts to tackle poverty and inequality.



## **The Abusive Behaviour and Sexual Harm (Scotland) Act 2016**

<http://www.legislation.gov.uk/asp/2016/22/contents/enacted>

When it comes into force, it will criminalise the non-consensual sharing of intimate images of another person. The 2016 Act will also introduce Sexual Risk Orders (SROs) which will strengthen and streamline the current risk of sexual harm order provisions in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. SROs may be made in relation to a person without a conviction for a sexual offence (or any offence), but who poses a risk of sexual harm. The SRO may be made by the court on application, by the police, where an individual has done an act of a sexual nature, e.g. engaged in sexually explicit conduct or communication with a child or children.

## **Human Trafficking and Exploitation (Scotland) Act 2015 – Section 1**

<http://www.legislation.gov.uk/asp/2015/12/contents/enacted>

Section 1 sets out the offence of human trafficking. There are two parts to the offence: the relevant action and an intention to exploit or knowledge of likely exploitation; both are needed for an offence to be committed. The first part of the offence is carrying out a relevant action with regard to another person. It does not matter whether that other person consents to that action being taken.

A relevant action includes any of the following:

- Recruiting another person;
- Transporting or transferring another person;
- Harboursing or receiving another person;
- Exchanging control over or transferring control over, another person;
- Arranging or facilitating (without necessarily doing), any of the actions above.

The internet could play a role in these actions. Travel from one place to another is not a required action for there to be an offence of human trafficking in Scotland, although it can form part of the offence. Involving a person in the making or production of materials which are classified as obscene under the Civic Government (Scotland) Act 1982 (i.e. “extreme” or child pornography) is included in the definition of exploitation. The definition also includes circumstances where the person has been the victim of certain sexual offences listed in section 3(5) of the Act, such as rape, sexual assault or child-sex offences. Where a person has committed the offence of human trafficking against a child, then section 6 of the Act requires a court to take that into account in sentencing and explain what part that consideration played in sentencing. It allows the court to increase the sentence it would have given in respect of the human trafficking, because it was committed against a child. It also requires the conviction to be recorded in a way which highlights the fact that it was committed against a child. In this Act, a child is a person under the age of 18.

## **Public Bodies (Joint Working) (Scotland) Act 2014**

[http://www.legislation.gov.uk/asp/2014/9/pdfs/asp\\_20140009\\_en.pdf](http://www.legislation.gov.uk/asp/2014/9/pdfs/asp_20140009_en.pdf)

The Act provides the legislative framework for the integration of health and social care services in Scotland. It requires the local integration of adult health and social care services, with statutory partners (Health Boards and Local Authorities) deciding locally whether to include children’s health and social care services, criminal justice social work and housing support services in their integrated arrangements.

Key features of the Act include:

- National outcomes for health and wellbeing will apply equally to Health Boards, Local Authorities and Integration Authorities.
- Health Boards and Local Authorities will be required to establish integrated partnership arrangements.
- An integrated budget will be established in each Integration Authority to support delivery of integrated functions, which will cover at least adult social care, adult community health care, and aspects of adult hospital care that are most amenable to service redesign in support of prevention and better outcomes.
- Each Integration Authority will establish locality planning arrangements at sub-partnership level, which will provide a forum for local professional leadership of service planning.
- Each Integration Authority will put in place a strategic commissioning plan for functions and budgets under its control. The joint strategic commissioning plan will be widely consulted upon with non-statutory partners, patient and service-user representatives, etc.
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### **The Children and Young People (Scotland) Act 2014**

<http://www.gov.scot/topics/people/young-people/legislation>

The Act furthers the Scottish Government's ambition for Scotland to be the best place to grow up in by putting children and young people at the heart of planning and services and ensuring their rights are respected across the public sector.

Key points:

- Ministers' new duties to consider steps which might secure better or further effect in Scotland of the UNCRC and to report to the Scottish Parliament every 3 years on relevant progress.
- New duties on specified public authorities to report every 3 years on the steps they have taken in that period to secure better or further effect of the UNCRC requirements.
- Every child up to the age of 18 (and beyond if still in school) will have access to a Named Person. The Named Person service will be available as an entitlement with no obligation for children and young people or parents to accept any offer of advice or support.
- A single planning framework – a Child's Plan – will be available for children who require extra support that is not generally available to address a child or young person's needs and improve their wellbeing. (New framework of Corporate Parenting duties and responsibilities, for relevant public bodies, to ensure the attention and resources of corporate parents are focused on the task of safeguarding and promoting the wellbeing of Scotland's looked after children and care leavers.
- Teenagers in residential, foster or kinship care who turn 16 gaining new rights to remain in their care placement up to the age of 21, even after compulsory supervision requirements are lifted, as well as extended entitlement to Aftercare support for care leavers up to their 26th birthday.
- **Part 3 of the Act places a duty on each local authority and the relevant health board, to jointly prepare a children's services plan for the area of the local authority covering a 3 year period.** A range of other relevant local and national bodies are expected to be either consulted with, or obliged to

participate, at various stages of the development of the plan. It also requires the local authority and relevant health board to jointly publish an annual report detailing how the provision of children's services and related services in that area have been provided in accordance with the plan.

### **The Post-16 Education (Scotland) Act 2013**

<http://www.legislation.gov.uk/asp/2013/12/contents>

This Act provides a legal basis to underpin aspects of Scottish Government's wide-ranging reforms to improve the way the post-16 learning system supports jobs and economic growth and helps young people meet their ambitions.

The Act includes measures in relation to:

- Widening access to higher education with a view to increasing the number of young people from deprived backgrounds who go on to study at degree level
- Supporting the delivery of Opportunities for All – the guarantee of a place in learning or training for all 16-19 year olds - by ensuring that young people who disengage from, or are at risk of disengaging from, learning or training can be provided with appropriate support
- Progressing the creation of 13 strong college groupings of scale, able to plan regionally and deliver across all of Scotland
- Ensuring that the structure of, and provision in, universities and colleges remains fit for purpose
- Capping the level of higher education tuition fees which Scottish institutions can charge students from the rest of the UK

### **The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013**

<http://www.legislation.gov.uk/ssi/2013/310/regulation/1/made>

Regulations are made under Section 67 of the Adoption and Children (Scotland) Act 2007 ("the 2007 Act") which enables the Scottish Ministers to prescribe the requirements that have to be met by an adoption for it to be recognised as an overseas adoption. They replace, for Scotland, The Adoption (Designation of Overseas Adoptions) Order 1973 ("the 1973 Order"). This instrument came into force on 3 January 2014.

### **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, Section 6**

<http://www.legislation.gov.uk/asp/2012/1/contents/enacted>

It is an offence to communicate material (including images) to someone that contains or implies a threat or incitement to carry out serious violence against a person or group of people. The communication must be likely to cause a reasonable person fear or alarm and be sent with the intent to, or recklessness as to whether it will, cause fear or alarm.

### **Children's Hearings (Scotland) Act 2011**

<http://www.legislation.gov.uk/asp/2011/1/contents>

- **Part 1:** Establishes a National Convener for Children's Hearings; composition and selection of members from children's panel.
- **Part 2:** Provides for continuance of office of principal reporter and specifies functions of SCRA.
- **Part 3:** Promotes principle of welfare of the child.
- **Part 5:** Shrieval child assessment and child protection orders (on application of LA)
- **Part 6:** Investigation and determination by the principal reporter that a case should be referred to a children's hearing (**note s. 67**) grounds for referral, replaces the provisions set out in part 2 of the Children Act 1995, see Schedule 6 for more detail.
- **Part 8 et seq.:** procedural matters to do with conduct of hearing, the pre-hearing panel, grounds hearing, proceedings before a sheriff, review of a compulsory supervision order, appeals, enforcement and miscellaneous provisions.

### **Equality Act 2010**

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

The duties of the Equality Act 2010 require responsible bodies to actively deal with inequality, and to prevent direct and indirect discrimination, harassment or victimisation of pupils on the basis, or a perceived basis, of protected characteristics, including due to pregnancy and maternity. It is discriminatory to treat a woman (including a female pupil of any age) less favourably because she is or has been pregnant, has given birth in the last 26 weeks or is breastfeeding a baby who is 26 weeks or younger. It is direct sex discrimination to treat a woman (including a female pupil of any age) less favourably because she is breastfeeding a child who is more than 26 weeks old.

### **Criminal Justice and Licensing (Scotland) Act 2010, Section 38 and 39**

<http://www.legislation.gov.uk/asp/2010/13/contents>

It is an offence for a person to behave in a threatening or abusive manner, where that behaviour would be likely to cause a reasonable person to feel fear or alarm. Depending on the facts and circumstances of the case, it may be possible to use the offence of stalking to prosecute a person who publishes any statement relating to a person or purporting to originate from that person or from another person that causes them to feel fear or alarm.

### **The Sexual Offences (Scotland) Act 2009, Sections 6, 23, 24, 33 and 34**

<https://www.legislation.gov.uk/asp/2009/9/contents>

It is an offence to coerce a person, or to cause a child under the age of 16, to view a sexual image or receive a sexual communication, where it is done for the purpose of obtaining sexual gratification or causing the recipient fear, alarm or distress.

### **The Looked After Children (Scotland) Regulations 2009**

<http://www.legislation.gov.uk/ssi/2009/210/contents/made>

Reflecting the Getting It Right For Every Child (GIRFEC) approach, these Regulations bring together the care planning services offered to looked after children at home with the care provision required when children are separated from their birth

parents. They also reflect more detailed and consistent requirements when children are looked after by kinship carers.

### **Schools (Health Promotion and Nutrition) (Scotland) Act 2007**

[http://www.legislation.gov.uk/asp/2007/15/pdfs/asp\\_20070015\\_en.pdf](http://www.legislation.gov.uk/asp/2007/15/pdfs/asp_20070015_en.pdf)

The Schools (Health Promotion and Nutrition) (Scotland) Act builds on the work of health promoting schools and Hungry for Success. It places health promotion at the heart of a school's activities and details a number of duties on local authorities such as to promote school meals and consider sustainable development guidance when providing food and drink.

### **Protection of Vulnerable Groups (Scotland) Act 2007**

<http://www.legislation.gov.uk/asp/2007/14/contents>

The Protection of Vulnerable Groups (PVG) scheme Replaces Disclosure Scotland Scheme, requires SMs to keep lists of persons working with protected adults and children, (s. 1). Specifies work which is to be regarded as regulated (s. 91) and establishes vetting procedures for the purposes of making an entry on the register, (Part II).

### **Scottish Schools (Parental Involvement) Act 2006**

<http://www.legislation.gov.uk/asp/2006/8/contents>

The Scottish Schools (Parental Involvement) Act 2006 places a responsibility on local authorities to improve parental involvement in three ways - learning at home, home/school partnerships and parental representation. The Parental Involvement Act recognises the vital role that parents play in children's learning and development, and aims to encourage parents to develop their children's learning at home and in the community. The Act reflects the shared role and responsibility that schools, parents and carers have in working together to educate children.

### **Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Sections 2 – 8**

<http://www.legislation.gov.uk/asp/2005/9/contents>

These sections make provision for Risk of Sexual Harm Orders (RSHOs). The purpose of this order is to give courts the power to place conditions on someone who is behaving in such a way which suggests that they pose a risk of sexual harm to a particular child or children generally. RSHOs can be made in respect of any person of any age if it appears to the police that that person has, on at least two occasions, engaged in certain inappropriate sexual conduct or communication with a child or children (under 16), and as a result there is reasonable cause to believe that it is necessary for the order to be made.

### **Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Sections 1, 9, 10 11 and 12**

<http://www.legislation.gov.uk/asp/2005/9/contents>

It is an offence (often referred to as an offence of "grooming") for a person intentionally to meet, travel with the intention of meeting, or make arrangements with the intention of meeting a child under the age of 16 in any part of the world, if that person has met or communicated with the child on at least one earlier occasion, and intends to engage in unlawful sexual activity involving the child or in the presence of the child either at the time of the meeting or after the meeting. It is also an offence to

pay for the sexual services of a child or to be involved in facilitating a child's involvement in child pornography.

### **Education (Additional Support for Learning) Act 2004**

<http://www.legislation.gov.uk/asp/2004/4/contents>

The Act requires education authorities to identify, provide for and to review the additional support needs of the pupils for whom they are responsible. An additional support need can arise for any reason, and can be of short or long term in nature. Additional support is provided to overcome a barrier to learning. The legislation requires that additional support provided is directed towards the individual needs of pupils.

### **The Communications Act 2003, Section 127**

<https://www.legislation.gov.uk/ukpga/2003/21/section/127>

It is an offence to send a message which is grossly offensive or of an indecent, obscene or menacing character.

### **Local Government in Scotland Act 2003**

<http://www.legislation.gov.uk/asp/2003/1/contents>

Part 2 "Community Planning" & "Part 3 Power to Advance" wellbeing are relevant to the establishment of Child Protection Committees (CPCs) which establish Child Protection procedures based on the National Guidance for Child Protection.

### **Criminal Procedure (Scotland) Act 1995**

<http://www.legislation.gov.uk/ukpga/1995/46/contents>

Sch. 1: Offences Against Children Under the Age of 17 Years to which Special Provisions Apply

**1.1** Any offence under Part 1, Criminal Law (Consolidation)(Scotland) Act 1995; any offence under ss. 18, 19, 20, 28, 29, 30 or 42 Sexual Offences (Scotland) Act 2009; any offence under ss. 12, 15, 22 or 33 Children and Young Persons (Scotland) Act 1937; any offence under the Prohibition of Female Genital Mutilation Act 2005; any offence under ss. 52/52A Civic Government (Scotland) Act 1982; any offence under ss. 1, 9, 10, 11, 12 Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005; any other offence involving bodily injury to a child under the age of 17; any offence involving the use of lewd, indecent or libidinous practice or behaviour towards a child under 17; any offence under ss. 5, 6, 7, 8, 9 Sexual Offences (Scotland) Act 2009; any offence under ss. 21-26, or 31-37 of that act.

### **Children (Scotland) Act 1995**

<http://www.legislation.gov.uk/ukpga/1995/36/contents>

- **Part 1:** parental responsibilities and rights; provisions relating to both; care of a child by a person without parental rights and responsibilities; guardianship; administration of a child's property; court orders relating to parental responsibility (**note. S. 11 in context of parental rights, responsibilities and guardianship; relevant to LACs**).
- **Part 2:** has been repealed and replaced (with the exception of s. 44 [prohibition on publication of proceedings] and ss. 76-80 inc. which deal with exclusion orders).

### **The United Nations (UN) Convention on the Rights of the Child (1991)**

<http://www.unicef.org.uk/UNICEFs-Work/UN-Convention/>

The UN convention defines a child as a person under the age of 18. It provides a set of minimum standards relating to children's civic, political, economic, social and cultural rights. These fall into three main categories:

- **Provision** – the right to minimum standards of health, social security, physical care, family life, play, recreation, culture and leisure plus adequate standards of living and good quality of education.
- **Protection** – the right to be safe from discrimination, abuse and neglect, exploitation, substance abuse, injustice and conflict.
- **Participation** – the right to a name and identity, to be consulted and taken account of, to access to information, to freedom of speech and opinion and to challenge decisions made on their behalf.

### **The Civic Government (Scotland) Act 1982, Sections 52 and 52A**

It is an offence to have in your possession or to make, take or distribute indecent images of children

### **Children and Young Persons (Scotland) Act 1937 Part 2: Prevention of Cruelty and Exposure to Moral & Physical Danger: Offences**

<http://www.legislation.gov.uk/ukpga/Edw8and1Geo6/1/37/section/12>

Notably, **s. 12 'cruelty to persons under 16'**: any persons who has attained the age of 16 and who has parental responsibilities in relation to a child or young person under that age or has charge or care of a child or such a young person, wilfully assaults, ill-treats, neglects, abandons or exposes him or causes or procures him...[to be so treated]...in a manner likely to cause him unnecessary suffering or injury to health...that person shall be guilty of an offence.

### **Local Delivery**

While our aim is to ensure that all children are safe from abuse and neglect, we recognise that there will be circumstances in which children and young people will have to enter the Child Protection system.

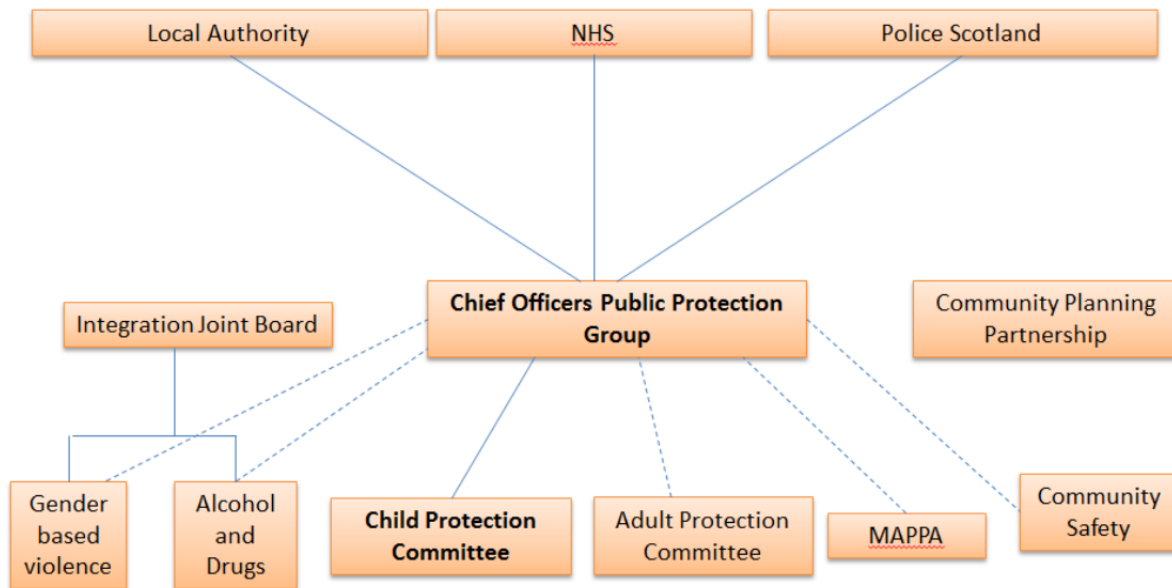
The Scottish Government is responsible for setting out national child protection policy, guidance and legislation in Scotland.

Child Protection Committees are responsible for local policy procedure and guidance. Partnership working is crucial to ensure that all key agencies including police, health, local authorities, Scottish Children's Reporter Administration and the 3<sup>rd</sup> sector work together to keep children safe.

### **Local Leadership/Governance Structures**

The structures in place around leadership vary across the country, however below is a sample representation of what the structure may look like.

# Child Protection Governance



## **Governance Structures Overview**

### **Local Government**

Elected members have a strategic role in ensuring that their council is delivering on their statutory responsibilities and that, in line with these responsibilities, there are appropriate arrangements in place for helping to keep children safe.

### **Chief Officers (Public Protection) Groups**

The Chief Officers Group is made up of Local Police Commanders and Chief Executives of health boards and local authorities. The Chief Officers are responsible for ensuring that their agencies, individually and collectively, work to protect children and young people as effectively as possible.

They also have responsibility for maximising the involvement of those agencies not under their direct control, which includes the Scottish Children's Reporter Administration, the Crown Office and Procurator Fiscal Service and the third sector.

The Chief Officer Groups across Scotland are individually and collectively responsible for the leadership, direction and scrutiny of their respective child protection services and their Child Protection Committees.

The Chief Officers are also responsible for overseeing the commissioning of all child protection services and are accountable for this work and its effectiveness. They are individually responsible for promoting child protection across all areas of their



individual services and agencies, thus ensuring a corporate approach. This responsibility applies equally to the public, private and third sectors.

### **Child Protection Committees**

Child Protection Committees (CPCs) are locally-based, inter-agency strategic partnerships responsible for the design, development, publication, distribution, dissemination, implementation and evaluation of child protection policy and practice across the public, private and wider third sectors in their locality and in partnership across Scotland. Their role, through their respective local structures and memberships, is to provide individual and collective leadership and direction for the management of child protection services across Scotland. There is a CPC within each local authority area and they report to the relevant Chief Officers Group.

### **Community Planning Partnerships**

There is a Community Planning Partnership (CPP) covering each local authority area. The Community Empowerment (Scotland) Act 2015 gives community planning a statutory purpose, focused on improving outcomes and reducing inequalities of outcome on local priorities.

CPPs do not have formal delivery or governance responsibilities for child protection. CPPs can choose to reflect child protection issues within the priorities they set for themselves if needed. CPPs also provide a vehicle through which public sector bodies can work for their own child protection delivery and governance.

Children's Services Partnerships have traditionally been the vehicle for the development of the Integrated Children's Services plan. These typically fit within the CPP structure.

### **Local Authorities**

As outlined above, the local authority Chief Executive, as Chief Officer, has particular responsibilities in relation to child protection.

Each Local Authority is required to have in place a Chief Social Work Officer (CSWO) who has a specific role in relation to the governance and decision making in relation to protecting children. The responsibilities of CSWOs are principally set out in statutory guidance, but sometimes are conferred directly by statute.

CSWOs also produce Annual Reports which provide useful summaries of all aspects of social work services delivery, including Child Protection, in their local area.

### **Integration Joint Boards**

The Public Bodies (Joint Working) (Scotland) Act 2014 puts in place arrangements for integrating health and social care, in order to improve outcomes for patients, service users, carers and their families. The Act requires health boards and local authorities to work together effectively to agree a model of integration to deliver quality, sustainable care services. NHS Highland and Highland Council have opted for a lead agency model where the health board is responsible for adult health and social care services and the local authority is responsible for children's social care and community healthcare services. The other health boards and local authorities have put in place a body corporate model, where an Integration Joint Board has

been established. This will see health boards and local authorities delegate a significant number of functions and resource to the Integration Joint Board who will be responsible for the planning of integrated arrangements and onward service delivery.

Each of Scotland's 30 Integration Joint Boards has a Chief Officer. Chief Officers of Integration Joint Boards play a crucial role in the implementation of health and social care integration. A Chief Officers Network has been created to help support implementation of health and social care integration. This network meets regularly to exchange information and to discuss common challenges as integration arrangements progress.

In areas where children's health and social work are delegated functions/part of integration scheme, Integration Joint Boards may also have a role in planning and commissioning child protection services.

### **National Organisations and Groups Which Have a Leadership Role**

There are a number of national organisations and groups that bring together senior leaders and which the system relies on to provide leadership, support and advice in regard to child protection and wider children's services. They are networks or membership organisations rather than decision-making or authorising bodies. These include the following organisations, however this list is not exhaustive:

**Convention of Scottish Local Authorities (COSLA)** – the representative voice of Scottish local government in Scotland. COSLA promotes and protects the interests of councils in Scotland and the people and communities they serve by representing their views to Scottish, UK and European governments and legislatures, other bodies and the public.

**Society of Local Authority Chief Executives (SOLACE)** – the representative body for Chief Executives and senior managers working in the public sector in the UK. There is a Scotland Branch.

**Child Protection Committees Scotland (CPCS)** - plays a leading role in the development and promotion of child protection policy, agrees common standards and efficient and effective procedures. CPC Scotland informs national child protection policy, working alongside the Scottish Government in order to make a positive difference to the lives of vulnerable children and young people.

**Social Work Scotland** - the professional leadership body for the social work and social care professions. It is a membership organisation which represents social workers and other professionals who lead and support social work across all sectors.

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**Association of Directors of Education in Scotland (ADES)** – an independent professional network for leaders and managers in education and children's services. It informs and influences education policy in Scotland, working in partnership with local and national government and other agencies. ADES also offer a range of professional development activities and opportunities for members.

### **Society of Local Authority Lawyers and Administrators in Scotland**

**(SOLAR)** – for all matters affecting local government, promoting sound administrative and legal practice within Scottish local authorities and aiming to promote and develop the professional knowledge and talents of SOLAR members.

**Scottish Leaders Forum** - The Scottish Leaders Forum (SLF) is a network of leaders at the heart of public services in Scotland. They meet to discuss and collaborate on the important policy issues facing Scotland. The SLF collaborates, shares, and improves on co-produced outcomes across all public services for the people of Scotland.

**Social Work Services Strategic Forum** – established in late 2013 as a partnership forum of key stakeholders from across the social services sector. It was established to develop and implement a Vision and Strategy for the sector with a strong commitment to working in partnership across organisations and with government to deliver its vision for high quality and effective social services. The Forum is chaired by the Minister for Childcare and Early Years and facilitated by the Office of the Chief Social Work Adviser in the Scottish Government.

**Coalition of Care and Support Providers in Scotland** – CCPS work to identify, represent, promote and safeguard the interests of third sector and not-for-profit social care and support providers in Scotland, so that they can maximise the impact they have on meeting social need.

### **Leadership and Workforce Development**

There are a number of organisations in Scotland which have responsibility for or interest in leadership and workforce development across a wide range of workers including those working in children's services. They may also have responsibility or capacity for leadership development. These include:

#### **Professional Regulatory Bodies**

**The General Teaching Council for Scotland (GTCS)** – maintains a register of teachers in Scotland and carries out a wide range of statutory functions and initiatives to promote, support and develop the professional learning of teachers.

**Nursing and Midwifery Council (NMC)** - regulates nurses and midwives in England, Wales, Scotland and Northern Ireland. Sets standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare throughout their careers.

**General Medical Council (GMC)** – regulatory body for doctors. Protects patients and improves medical education and practice in the UK by setting standards for students and doctors. Supports them in achieving and exceeding those standards, and take action when they are not met.

**Scottish Social Services Council (SSSC)** - the regulator for the social service workforce in Scotland. The SSSC works to ensure that the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. They protect the public by registering social service workers, setting standards for

their practice, conduct, training and education and by supporting their development. Where people fall below the standards of practice and conduct they can investigate and take action. The SSSC also facilitates the development and implementation of the Leadership Strategy for Social Services in Scotland.

**The General Dental Council** - regulateS the professions by setting standards, quality assuring education, and registering dentists and dental care professionals. They also take action against those who work outside the law.

### **Scrutiny Bodies**

**Care Inspectorate** - regulates and inspects care services in Scotland to make sure that they meet the right standards. They also jointly inspect with other regulators to check how well different organisations in local areas work to support adults and children.

**Healthcare Improvement Scotland (HIS)** - the national health care improvement organisation for Scotland. They work with staff who provide care in hospitals, GP practices, clinics, NHS boards and with patients, carers, communities and the public. HIS delivers scrutiny activity, provides improvement support to healthcare providers and provides clinical standards, guidelines and advice based on the best available evidence.

**Education Scotland** - Education Scotland is a Scottish Government executive agency charged with supporting quality and improvement in Scottish education. In addition to their inspection function, they work with a range of national partners and with practitioners to ensure that professional development across the education system is effective and impacts positively on outcomes for all learners.

**Her Majesty's Inspectorate of Constabulary for Scotland** - Her Majesty's Inspectorate of Constabulary (HMIC) independently assesses police forces and policing across activity in the public interest.

### **Practice Improvement Bodies**

**Centre for Excellence for Looked After Children in Scotland (CELCIS)** – dedicated to making positive and lasting improvements in the wellbeing of children and young people living in and on the edges of care, and their families, across the whole country, and the globe. In their partnership work with carers, social workers, teachers, nurses, charities, the police, local authorities and the Scottish Government CELCIS work to understand the issues, introduce the best possible practice and develop solutions.

**Scottish College of Educational Leadership (SCEL)** - supports teachers' and early years' practitioners professional learning in leadership

**NHS Education for Scotland** - an education and training body and a special health board within NHS Scotland, with responsibility of developing and delivering education and training for the healthcare workforce in Scotland.

**Centre for Youth and Criminal Justice** - supports improvement in youth justice, contributing to better lives for individuals and communities

**IRISS** - a charitable company that promotes positive outcomes for the people who use Scotland's social services, by enhancing the capacity and capability of the social services workforce, to access and make use of knowledge and research for service innovation and improvement.