

Children (Equal Protection from Assault) (Scotland) Bill

Minutes: 3rd meeting of Implementation Group – 23 September 2019, St Andrew's House, Edinburgh

Attendees

Simon Stockwell (chair), Sarah Meanley and Maria Gray (Scottish Government); Chloe Riddell (Children 1st); Matthew Sweeney (Convention of Scottish Local Authorities); Wendy Wilson (Crown Office and Procurator Fiscal Service); Chief Superintendent David Duncan (Police Scotland); Alistair Hogg (Scottish Children's Reporters Administration), Clare Simpson (Parenting Across Scotland), Clare Armes (NHS Lothian), Steven Dehn (Office of John Finnie MSP)

Apologies

Umar Ansari (One Parent Families Scotland), Jack Dudgeon MSYP, Angela Latta (Social Work Scotland), Megan Farr and Máire McCormack (Children and Young Persons' Commissioner).

Introduction

1. The chair welcomed the attendees and noted that there were new and returning members of the group. Those present introduced themselves.

Update on progress of the Bill

2. The chair provided an update on the Bill, noting that Stage 3 was due to be held shortly, on 3 October 2019. [Secretary's Note. The Official Report on the amendments lodged at Stage 3 and on the Stage 3 debate is at <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12293&mode=pdf> (column 102 onwards)]

Crown Office and Procurator Fiscal Service (CoPFS)– update on Lord Advocate's guidelines

3. CoPFS advised that the first draft of the Lord Advocate's Guidelines had been shared with Police Scotland and that discussions were ongoing. A further meeting with Police Scotland was due to take place in November. COPFS explained that as the guidelines were still in draft form, the content would not be shared. However, they confirmed that the guidelines would support a proportionate response to individual circumstances of particular cases. When appropriate, that response may include the use of informal response by the police, recorded police warnings, diversion and other alternatives from prosecution. CoPFS confirmed the view from Stage 2 that it would not be for Parliament to legislate on publication of these guidelines. Decisions on whether or not guidelines should be published would be a matter for the Lord Advocate.

4. Children 1st noted the scope for links to the Child Protection guidance. COPFS highlighted that the guidelines were instructions on the reporting of assaults

of children involving physical punishment. The guidelines would ensure a proportionate response and enable a prosecution where justified. The guidelines would not replace police SOPs or guidance in relation child protection. The meeting noted that, as previously discussed, the Child Protection guidance was being reviewed and it would take account of the Equal Protection Bill, should this be passed by Parliament.

Awareness raising

5. The chair advised that:

- the Scottish Government is keeping a watching brief on the progress of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill¹, where awareness-raising has also been discussed.
- The Scottish Government consider that awareness raising could be achieved by mainstreaming information via channels like PlayTalkRead and the Child Protection Guidance and issuing a departmental circular

6. During the subsequent discussion, the following points were made:

- NHS Lothian noted that health visitors are well placed to raise awareness about the Bill, and that schools could be a possible additional pathway.
- COSLA noted the need to address points raised during the Bill's progress through Parliament about awareness raising, and suggested that it would be appropriate to engage with children and consider the ongoing work on UNCRC incorporation.
- The possibility of diversion to social work was raised. COPFS noted that in order to ensure a proportionate response, alternatives to prosecution, for example, diversion to social work, will continue to be utilised. COSLA noted that social work resources are limited at present.
- COPFS impressed the importance of raising awareness of the change in the legislation with parents and carers.
- Children 1st noted that the third sector can provide early support and assistance for parents.
- Police Scotland and the Crown noted that awareness raising should ensure that the police, if attending an incident, don't need to explain the law

7. Summing up, the Scottish Government noted that there was a variety of options in relation to raising awareness and agreed to produce a discussion paper on the issue for the group's next meeting. **[Action: Scottish Government]**.

Monitoring the effect of the removal of the reasonable chastisement defence

8. The Scottish Government asked for views on how the effect of the removal of the defence could be monitored. During the subsequent discussion, the following points were made:

¹ <http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=24674>

- COPFS indicated that it anticipates being able to provide figures in relation to the number of reports received involving an assault of a child and action taken e.g. diversion from prosecution or court proceedings.
- Children 1st indicated that they would be able to informally monitor the number of enquiries from parents about the Bill received via Parentline.
- NHS Lothian noted that it might be possible to use wellbeing concern forms to record relevant information.
- SCRA noted the need for them to consider monitoring due to the possibility of becoming involved should a case not proceed to prosecution. SCRA said it would consider how it currently holds data and how this might support monitoring.
- Police Scotland noted the points raised about the Bill and vulnerable people.

9. Summing up, the Scottish Government noted that the need for a systematic approach to monitoring and agreed to produce a discussion paper on the issue for the group's next meeting. **[Action: Scottish Government]**

Forward planning – the next 12 months

10. Children 1st suggested that more investment in family support was needed so that families can be supported earlier. Children 1st also suggested that third sector capacity should be increased along with more investment in GIRFEC.

11. Parenting Across Scotland noted that the Care Review had attracted public attention, including the need for more investment in family support. Some families require sustained support. The chair noted that awareness raising could include information for families via social media and other channels.

12. COSLA noted the need to reach hard-to-reach families with different cultural backgrounds, as part of awareness raising.

AOB

13. No any other business was raised.

**Scottish Government
November 2019**