SCOTTISH GOVERNMENT
CHILD PROTECTION SYSTEMS REVIEW:

Child Protection Committees, Child Protection Registers & Case Conferences, and Significant and Initial Case Reviews

Background Paper Four: Children and Families' Experiences of Child Protection Processes

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Introduction

1.1.   On 25th February 2016, former Cabinet Secretary for Education and Life Long learning, Angela Constance MSP announced a National Child Protection Improvement Programme for Scotland in a statement to Parliament**.** This programme consists of a number of areas of work: a review of the formal elements of the child protection system; practice in the Children's Hearings system; steps to promote and support leadership; the role of inspection agencies; improving data and evidence; and action to address the impact of neglect on children. This complements ongoing work on addressing child sexual exploitation; child trafficking and internet safety.

1.2.   The Scottish Government has established this review group to consider **formal child protection systems including Child Protection Committees, Child Protection Register and case conferences, and Significant and Initial Case Reviews**. This is the fourth in a series of briefing papers to inform the meeting of the Review Group. This paper presents what is currently known about children and birth families' views and experiences of formal child protection processes. There is limited academic research on children and families' experiences of formal child protection processes in Scotland; therefore, a wider review was undertaken of research conducted across the United Kingdom. This paper also draws on grey literature, including local unpublished studies and evaluations of child protection practice. The author is grateful to the wide range of people who contributed documentation for this review. The paper identifies the gaps in our current understanding and poses some initial questions to support the development of the work of the Review group.

Background

2.1   Many children who experience abuse and neglect may not be detected, reported or recorded within formal child protection systems (Gilbert et al., 2009). A UK-wide study based on self-reporting of child maltreatment found almost six per cent of children under 11, 18.6 per cent of 11–17s and 25.3 per cent of 18–24s

had experienced severe maltreatment during their childhood (Radford et al., 2011). It is estimated that less than a tenth of those children who experience abuse or neglect are known to formal child protection agencies (Gilbert et al., 2009). For those children who do disclose abuse, it is most likely to be to a mother or friend, rather than a professional. Some children report disclosing abuse and neglect, but remain 'unheard' and no action is taken (Allnock & Miller, 2013). Disclosure in itself can be problematic as it often requires recalling a specific incident; whereas experiencing neglect on a day-to-day basis can be harder to 'disclose' (Vincent et al., 2004). In a review of the children and families access to services where there was neglect, children stated they wanted 'somebody to notice that they are unhappy and asks them why' (Burgess et al., 2014: 25).

2.2   International research estimates that disabled children face a three to four-fold increased risk of abuse compared to their non-disabled peers (Jones et al., 2012; Sullivan and Knutson, 2000). A UK-wide NSPCC study of deaf and disabled children's experiences of seeking help about current and past abuse and child protection systems found: Personal, family, community and societal barriers to disclosure must be tackled to ensure that abuse of deaf and disabled children is identified and addressed; furthermore, there is a need for adults to work more proactively to identify potential signs of abuse rather than rely on children's disclosures (Taylor et al., 2015).

2.3   Many families can face challenging times where caring for and protecting their children can be incredibly difficult. Research indicates that the majority of abuse and neglect of children occurs within families (Gilbert et al., 2009). In particular, studies have found children can often face cumulative risks and high levels of adversity when living with parental drug and alcohol misuse, parental mental health problems and domestic abuse (Cleaver et al., 2007; Gorin, 2004).

2.4   For some children and young people, physical, sexual and emotional abuse occurs out with the family; for example, by an adult in a position of trust known to the child (teacher, nursery worker, youth worker, cleric, residential worker), a

person within the community and to a lesser extent, 'stranger' abuse. There is an increasing awareness about children who are being sexually exploited and abused via the internet. There are child protection concerns about children who have been abused through human trafficking. In a minority of children's experiences, abuse can be inflicted by another child, rather than an adult. This can occur within immediate families, such as inter-sibling abuse, as well as through a wider network. In some cases, an older child may abuse a younger child through the guise of a coercive relationship.

2.5   Around 13 688 children were referred to the Children's Reporter on care and protection grounds in 2015/16; this represents 1.5% children and young people in Scotland under the age of 16 (SCRA, 2016a). Lack of parental care was the main reason for a care and protection referral (41%); followed by 1874 referrals due to a child being a victim of a Schedule One offence (14%) as defined in section 67(2) of the Children's Hearings (Scotland) Act 2011 (SCRA 2016a:9).

2.6   In 2015, around 3 in every 1000 children under 16 were on a Child Protection Register in Scotland; this equated to 2751 children (Scottish Government, 2016). Children placed on the register are considered to be at risk of significant harm and require a Child Protection Plan. Children can be placed on the Child Protection Register pre-birth up to the age of eighteen. There has been a fairly equal gender split of registration. Children placed on a Child Protection Register pre-birth account for around 5% of all registrations. Just over half of all children on Child Protection Registers are under the age of five. Analysis of children's circumstances on the Child Protection Register showed the main perpetrator to be the birth parent (78%)(Scottish Government, 2016).

2.7   As of 2014-2015, just over 6000 Child Protection Case Conferences (excluding reviews) were convened for children where there was a concern that a child was at risk of significant harm; of these, 73% resulted in a child being placed on the Child Protection Register (Scottish Government, 2016). There is no national data on the number of initial referral discussions that took place pre-case conference.

Legislation

3.1   There is a legislative requirement to take into account the views of children and parents where there are care and protection concerns. Where children are at risk of significant harm, the Scottish Courts and Children's Hearings should undertake decision-making with the utmost rigor given the serious implications. Decisions may include the removal of a child from a parent and the transfer of parental responsibilities and rights to the state.

3.2   The Children (Scotland) Act 1995 has provided the main legal framework for child welfare and protection in Scotland. There are three main themes that run through the 1995 Act:

  i. The child's views should be taken into account in decisions that affect their lives;

  ii. The welfare of the child is the paramount consideration;

  iii. No court or hearing should make an order, unless the court or hearing considers that to do so would be better for the child than making no order at all (known as the 'no order' principle).

The Act also provided an early intervention approach with a provision of local authority duties for children 'in need' (section 22). The 1995 Act also enshrines parental responsibilities and rights.

3.3   The Children's Hearings (Scotland) Act 2011 sets out the duties and powers of local authorities, constables, courts and other persons to refer all children who may be in need of compulsory measures of supervision to the Scottish Children's Reporter Administration. When actions are required to protect children from abuse and neglect, Child Assessment Orders, Child Protection Orders and Interim Orders are used under 2011 Act.

3.4   The Children and Young People (Scotland) Act 2014 is a key part of the Scottish Government's strategy for making Scotland the best place in the world for children to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than

crises responses. Underpinned by the Scottish Government's commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children's services improvement programme, [Getting it Right for Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.

3.5 Under article 3(2) of the [Relevant services in relation to children at risk of becoming looked after etc. (Scotland) Order 2016](#), a local authority must consider whether the child's wellbeing is being, or is at risk of being, adversely affected by any matter, such that a child is at risk of becoming looked after. As far as reasonably practical, the local authority must ascertain and have regard to the views of the child and such persons the local authority considers appropriate (article 3(4)).

3.6 The UK Government ratified the [United Nations Convention on the Rights of the Child (UNCRC) 1989](#) in 1991. The UNCRC contains 54 articles; of particular relevance are: Article 3 where the best interests of the child should be the primary consideration; Article 12 which states that "…parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child"; Article 19 where governments must protect children from all forms of violence, abuse, neglect and mistreatment; and Article 34 protection from sexual exploitation and sexual abuse. Part One: Rights of Children in the [2014 Act](#) requires Scottish Ministers and public authorities to report on steps taken to support the UNCRC.

Policy

4.1 The Scottish Government are committed to delivering public service reform as set out in the Christie Commission. The Commission proposed an asset-based approach, where services are developed *with* people, rather than *for* people.

We recommend that, in developing new patterns of service provision, public service organisations should increasingly develop and adopt positive approaches which build services around people and communities, their needs, aspirations, capacities and skills, and work to build up their autonomy and resilience' (Christie Commission, 2011:27).

At the heart of the Christie Commission reforms are preventative approaches and early intervention to tackle inequalities across Scotland. This commitment covers the provision of child protection services and there should be recognition of the role of children, families and communities can play in developing services that protect, support and promote the wellbeing of children and their families.

4.2   The Getting it Right for Every Child (GIRFEC) approach is underpinned by early intervention and supporting families at times of difficulty. This applies to children from birth to eighteen years old. The Named Person functions are designed to promote, support and safeguard the wellbeing of the child or young person as set out in [Part 4: Provisions of Named Persons](#) of the 2014 Act and [associated statutory guidance](#). The delivery of the functions will be part of the Named Person's day-to-day work and should build on a partnership approach to working with children and parents or carers. The Named Person's response to any wellbeing need should be proportionate, informed by the child's views, and the views of parents and carers.

4.3   The [National Guidance for Child Protection in Scotland](#) is explicit about the involvement of children in child protection processes. As stated:

> 'Children should be helped to understand how child protection procedures work, how they can be involved and how they can contribute to decisions about their future. This may be supported by accessing advocacy services. Taking into account the age and maturity of the child or young person, they will often have a clear perception of what needs to be done to ensure their own safety and wellbeing. **Children should be listened to at every stage of the child protection process and given appropriate information about the decisions being made.** Suggestions for improvements from children, young people and families who have been through the child protection system should also be sought. When a child has additional support needs, is deaf or hard of hearing, has a disability or English is not their first language, advice and support may be required to ensure that they are fully involved in what is happening (Scottish Government, 2014:92).

4.4   As stated in the National Guidance, work with parents and carers should be underpinned by a partnership approach, where the strengths, as well as weaknesses, in families are identified. The views of parents and carers should always be recorded and taken into account. Provision of independent advocacy for parents with learning disabilities should always be considered (where available).

4.5   As part of an earlier Child Protection Reform Programme (2003-2006), the Scottish Executive produced, [Protecting Children and Young People: The Charter](#) developed from research conducted by Save the Children to hear the voices of children and young people across Scotland. The focus groups included different groups of children and young people; however, the work did not specifically involve children who had experienced the formal child protection system. The key messages from children and young people were: **Get to know us, speak with us, listen to us, take us seriously, involve us, be responsible to us, think about our lives as a whole, think carefully about how you use information about us, put us in touch with the right people, use your power to help, make things happen when they should, and help us be safe.**

4.6   A study conducted of the child protection reform process considered the implementation of [Protecting Children and Young People: The Charter](#) in one Scottish local authority. The research found that whilst professionals were knowledgeable about the Charter as an 'aspirational document', there was a lack of knowledge about how to apply the principles. Furthermore, children and families were largely unaware of the Charter (Vincent et al., 2010).

4.7   In collaboration with children and young people, the Commissioner for Children and Young People in Scotland has developed an interactive resource for people working with children called the [7 Golden Rules of Participation](#). These rules are a set of principles to support children to understand, experience and exercise their participation rights and are available in a variety of formats. The Golden rules include: understand my rights, a chance to be involved, remember it's my choice, value me, support me, work together and keep in touch.

Evidence Base

Children's Experiences of Child Protection Processes

5.1   There has been insufficient attention on children and young people's experiences of formal child protection processes in Scotland and the rest of the United Kingdom (Action for Children et al., 2011; Cossar et al., 2011; Elsley et al., 2013). As highlighted in the Munro Review of Child Protection in England,

> *'Children and young people are a key source of information about their lives and the impact any problems are having on them in the specific culture and values of their family. It is therefore puzzling that the evidence shows that children are not being adequately included in child protection work'* (Munro, 2011:25).

5.2   As part of the 2003-2006, Child Protection Reform Programme a review of children's experiences was commissioned (Scottish Executive, 2002), interviews with eleven children as part of the audit were undertaken and analysis of children's calls to ChildLine Scotland in relation to abuse and neglect (Vincent et al., 2004). In a two week reporting period in November 2001, 217 children reported abuse and neglect to ChildLine; of these children, 12% had been involved in a formal child protection process. There were a mix of experiences recorded ranging from, police and teachers being 'helpful and supportive', to 'many felt agencies had let them down, had been unhelpful, had not listened to them, not believed them or had done nothing. The principal complaint was of lack of action' (Vincent et al., 2004:167).[1]

5.3   In a small scale qualitative study, eleven children and young people (six aged between twelve and fifteen years, five aged sixteen years or over) were interviewed about their experiences of the child protection system in one Scottish local authority (Woolfson et al., 2010). All participants had strong views on ways of improving the child protection system. Suggestions included: involving children and young people more in the decision making process,

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[1] Awaiting some updated analysis on children contacting ChildLine Scotland in relation to abuse and neglect in 2015-2016 from NSPCC.

ensuring that outcomes which were initially agreed between the authorities and young people should either be carried out or explanations given as to why this will not occur, allowing young people an opportunity to attend, or to be represented, at Child Protection Case Conferences, providing full information throughout the child protection process, and encouraging families to have greater involvement in decision making. Practical suggestions included having fewer attendees at meetings where a child or young person is to attend and requiring police officers to wear plain clothes when visiting family homes. Six participants specifically noted that they were unaware they were on the Child Protection Register until they were contacted to take part in this current study; and of the five who knew they had been placed on the register at some stage, only two knew if they remained on it (Woolfson et al., 2010:2079).

5.4   A Scottish study explored how children's views were considered in Child Protection Case Conferences before, during and after a service to support children to participate in case conferences had been introduced in one local authority (Bruce, 2014). A case file review at two time stages was conducted on a sample of 21 children (aged 7-16 years old) who had a Child Protection Case Conference. The review found the majority of children did not attend the case conference (file review one: 86%; file review two: 93% non-attendance). There was a shift in the time period of the recording of a child's view; in file review one, there was no view recorded for 82% of children, compared to 33% having no view recorded in file review two. The research highlights the challenges facing social workers in engaging with children to ascertain their views; 'for example, children were described as guarded, wary of professionals, "child does not trust people", and the child described as "closed and difficult to read" (Bruce 2014:521). A number of children's views were not documented due to having a 'learning disability'. Although a small scale study, the research highlights the importance of developing confidence and competence of social workers in communicating with children to be able to record their views.

5.5   A mixed-method study of child protection and disabled children found that social workers and police officers often lacked confidence, knowledge and experience

when investigating allegations of abuse concerning disabled children (Stalker et al., 2010). In Scotland, there was a specific concern that disabled children were 'invisible' in child protection processes and this led to under-reporting. Qualitative interviews with Scottish professionals highlighted a difference in thresholds for taking more formal child protection routes:

> *'People get together and look at it and realise the family needs quite a lot of support and so maybe rather than going down the child protection case conference investigation route, [they decide] this family needs support from the team for children with disabilities'* (Stalker et al., 2010:18).

The study also found disabled children were less likely to be seen as credible witnesses and fewer cases would come to court. The authors conclude that there is little known about disabled children's experiences of formal child protection processes and that it is imperative to make the child protection system more accessible and sensitive to disabled children's needs.

5.6   Across the UK, there is a lack of understanding of younger children's experiences of child protection services (Elsley et al., 2013; Whincup, 2011). A Northern Irish study with thirty-nine children aged 4-7 in care found children could share detailed understanding of the abuse and neglect experienced in their birth families (Winter, 2010). The children demonstrated a capacity to share their views, yet many reported that they did not feel listened to by social workers. The author guards against an assumption that younger children cannot express their views or participate in decisions that affect their lives.

5.7   The Scottish Children's Reporters Administration conducts a National Survey with children and young people (aged 3-17 years old), as well as parents and carers, who have attended children's hearings to improve the service they receive. 77% of young people felt like they were the most important person at their last Hearing, and 76% said that they had given their views. Of those who gave their views, three quarters said they had felt listened to. Around a third of children had not received the 'Having your Say' form prior to the Hearing (SCRA, 2016b).

5.8   Based on a literature review and consultation in England, Action for Children and partners (2010: 28) highlighted the need for resources specifically for children and young people,

> *'It is evident that children and young people who enter the system, do not understand it, nor do they know how to access information about child protection processes. A guide for children and young people should be developed to help them to understand safeguarding systems.'*

Helen Whincup (2011:1) also provides a useful summary of the key elements for involving children where there are child protection concerns: 'The degree to which children and young people are at the centre of assessment and decision making in a meaningful manner, depends on the capacity of practitioners, supported by the systems in which they train and work, to form relationships and communicate effectively with them'.

Families' Experiences of Child Protection Processes

6.1   There is limited research on the experiences of parents (and to a lesser extent) wider families in formal child protection processes in Scotland. The participation of parents in child protection processes can be framed by a wider discourse on service user participation, alongside a recognition that 'active parental involvement in intervention is more likely to lead to better outcomes for children at risk of abuse and/or neglect' (Jackson et al., 2016:2).

6.2   A small-scale qualitative study with twelve parents subject to statutory child protection intervention measures was conducted in one Scottish local authority. Parents reported 'the initial stages of intervention as overwhelming and distressing' characterised by antagonistic relationships with professionals (Jackson et al., 2016: 8). There was often confusion and a lack of clarity when children were placed on the Child Protection Register:

> *'I didn't understand it all how they got on the register. What is the register? It was a long time ago…so I didn't understand…it didn't feel real to me…when I understood, I was ashamed. It was embarrassing kind of thing (Father)* (Quoted in Jackson et al., 2016:9).

There was a greater understanding of the role of child protection services over time; one example was given by parents with learning disabilities who felt very clear explanations were given and the long term aims were shared. Initial Child Protection Case Conferences were experienced as 'distressing, intimidating, humiliating, frightening and disempowering' for parents and expressing their views was very difficult (Jackson et al., 2016:12). However,

> *'Parents were generally complimentary about their social workers and other professionals they worked with on an individual basis and often made a point of highlighting it was the process of a case conference that was problematic and not the individual professionals in attendance'* (Jackson et al., 2016:13).

6.3   This study concludes, 'there was consensus amongst parents that professional intervention had *ultimately* been a good thing that had 'made a difference' (ibid.:14). This is consistent with findings from wider research studies which highlight that statutory intervention can make a positive difference for families (see Cossar et al., 2011; Ghaffer et al., 2012).

6.4   Research studies from across the UK have reported mixed experiences of formal child protection processes; however, a recurrent theme across studies in the importance of developing supportive and trusting relationships with professionals (Ghaffer et al., 2012). A study involving 42 families across three English local authorities reported: initial engagement was distressing and scary; case conferences were intimidating and it was difficult for parents to express views. The study concluded:

> *'Overall, parents' evidence in this study demonstrates the potential for positive outcomes through Child Protection interventions. Many parents had received positive, sometimes life changing help. The importance of publicising positive outcomes in Child Protection work was emphasised by one parent: "People think they (social workers) are there to take your kids away, but they're not. They are there to help you. I think they need to …. make people understand that'* (Ghaffer et al., 2012: 900).

6.5   There is international evidence that many families can engage positively in family decision making processes where there are child welfare concerns (Frost et al., 2014). Originating in New Zealand, the Family Group Conference model (FGC) consists of four distinct parts: Preparation with the family; information

giving stage at the start of the conference; private family time to develop a plan; sharing the plan with the co-ordinator and professionals for agreement. Increasingly there is recognition that a further step may be required for the family group to reconvene to discuss progress on implementing the plan at a later stage. The quality of the independent coordinator in mediating with family members is considered to be critical to the success of the FGC process. Whilst acknowledging that more research is required to demonstrate the outcomes of children involved in FGC, the authors conclude that the evidence of participation is compelling:

> *'Studies of the experience of children and families using the FGC model suggest that FGC is a family-centred and strengths-based approach that promotes partnership between family and State, and can consequently act as an empowering process'* (Frost et al., 2014:506).

Furthermore, there is a specific role of the child's advocate supporting the child's participation in the process (as appropriate to age).

6.6 In a research review, Ward and colleagues (2014:12) found family decision making models, as well as Motivational Interviewing and Family Partnerships Models can 'offer potential methods of engaging parents who are ambivalent about change, mistrustful of social workers, or not fully ready for change'. There are further advantages that have been recognised in research studies involving the wider family network in supporting the child and the birth family (Pitcher & Arnhill, 2010).

6.7 'Signs of Safety'© was developed in Western Australia during the 1990s by Andrew Turnell and Steve Edwards; the approach is based on the use of Strength Based interview techniques, and draws upon techniques from Solution Focused Brief therapy (SFBT). It aims to work collaboratively and in partnership with families and children to conduct risk assessments and produce action plans for increasing safety and reducing risk and danger by focusing on strengths, resources and networks that the family have. There is no set time frame for the intervention. There is an ongoing evaluation of Signs of Safety approach in England (Bunn, 2013). A six year study on the implementation of Signs of Safety

creating cultural change in the provision of child protection services will be of interest for the review group (Salveron, et al., 2015).

Practice development

7.1   There has been recognition and innovation in service development focused on the participation of children and birth parents in formal child protection proceedings. There has been growing interest in the use of Family Group Conferences and the 'Signs of Safety' approach where a child has been identified as being at risk of significant harm in Scotland. These approaches have been explored primarily by local authorities either 'in house' or as a commissioned third sector service. A Strengthening Families Conference model has been piloted in England which uses a strengths based, outcome focused, approach underpinned by the child's right to participate (Aldridge, 2012). As the model evolved, a shift from 'opt in' to 'opt out' independent advocacy service for children was provided. To date, we are unaware of this model being used in Scotland, although different components are implemented.

7.2   Viewpoint is the most commonly used interactive computer programme which incorporates audio computer assisted interviewing allowing children to listen to, or read questions and respond immediately on screen. Following a successful pilot in two areas of Glasgow, Viewpoint questionnaires for obtaining the views of children subject to children protection and vulnerable young person procedures were rolled-out across the city in April 2009 (Rigby, 2011). Three separate questionnaires were designed for use, where appropriate, at child protection review conferences for children aged 5-7, 8-11 and 12-16 years old. Around ninety children involved in Child protection review case conferences completed a questionnaire on their experience of Viewpoint. The evaluation found, children were generally positive about the Viewpoint programme in helping them to express their views at meetings. However, professionals were less positive about the programme suggesting it did not influence decisions and planning (Rigby, 2011).

7.3 The development of advocacy services for children and parents involved in formal child protection processes is of growing interest (Aldridge, 2012). Current service providers include Children 1ST and Barnardo's. The models include the provision of an independent advocate for a parent and/or a child at Child Protection Case Conferences and other decision-making forums as appropriate. Referrals are primarily from local authority social work departments. One service has developed a 'Child Protection Buddy Model' where the child is supported by a trusted person already known to them (for example, a youth worker, support worker). The rationale is the ongoing supportive relationship for the child pre and post any child protection proceedings. Most services work with children aged seven up to age sixteen. Services use the provision of translators for children whose first language was not English as appropriate.

7.4 As stated in National Child Protection Guidance, 'the use of an advocacy service for the child or young person, where available, should **always** be considered' (Scottish Government 2014:93). There is recognition that there is not equal opportunity to receive advocacy support for some children; for example, there are particular challenges in current practice models in ensuring the participation of younger children and disabled children. In part, this requires timely referrals from social work teams who are positive about the benefits of advocacy for all children. Furthermore, given the early stage of service development and sensitivities in child protection work, there may be a necessary time period where professionals referring to the service build trust and confidence. Advocacy services are only available in a minority of local authorities.

7.5 There has been a similar interest in the provision of advocacy for parents involved in child protection processes. In particular, this work has focused on parents with learning disabilities where there is some recognition that additional support is required to ensure parents can fairly participate in an often complex bureaucratic process (McIntyre & Stewart, 2006; SCLD, 2015).

Some Questions

1. What is your experience of children and families' participation in Child Protection Case Conferences? What are the strengths and limitations of current practice models?

2. What is your experience of children and families' participation in Children's Hearings where a child is at risk of significant harm?

3. Are there models or practices that promote the participation of children and families when there are child protection concerns?

4. Are there any groups of children who are under-represented in formal child protection processes? How could we ensure they are involved appropriately?

5. Do children *want* to be involved in formal child protection processes? What are the benefits for them in participating?

6. How can children and families meaningfully participate in the development of services that promote and protect wellbeing?

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