

# Consultation Response



## Response to Scottish Executive Outline Proposals on Assessing Our Children's Needs- The Way Forward?

### Children in Scotland

Children in Scotland is Scotland's national umbrella agency for organisations and professionals working with and for children and their families. It exists to identify and promote the interests of children and their families and to ensure that relevant policies, services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents over 300 members, including all the major voluntary, statutory and private children's agencies, professional associations and local authorities as well as many smaller community groups and children's services. Children in Scotland facilitates the National Early Years Forum, the Scottish Parenting Forum, the Special Needs Advisory Group, Enquire, the national advice service for special educational needs in Scotland and a National Steering Group on Children infected/affected by HIV/AIDS. It works in partnership with the National Children's Bureau and Children in Wales, and is a member of the European Forum for Children's Welfare (EFCW).

### Response

Children in Scotland welcomes the opportunity to comment on the outline proposals in the Scottish Executive's response to the consultation. This is an important stage in the process of moving towards legislation. As the Executive's response asserts, new legislation is required to ensure "that certain standards are reached or maintained, that rights are underpinned and that all children's needs are met". This response is based on two Scottish Executive consultations: one with individuals and organisations working in the Special Educational Needs field and one with children and young people themselves. Enquire, the national advice and information service for Special Educational Needs also contributed to the mediation and appeals section within this response.

## **ASSESSMENT AND PLANNING FRAMEWORK**

### *Staged Intervention*

Children in Scotland welcomes the proposal that there should be a staged intervention process in school and at the pre-school level for children who require extra support. Of particular note is the expansion of such a process to children for whom English is an additional language, refugees and asylum seekers, children with social emotional and behavioural difficulties and Gypsy/Traveller children.

Parents should be fully involved with the pre-school joint assessment teams from the outset as a matter of good practice. The Scottish Executive proposes that time-scales are introduced for the staged assessment and planning process. This should be extended into the appeal process should there be a grievance.

### *Co-ordinated support Plan*

Children in Scotland supports the Executive's proposal that the Co-ordinated Support Plan will continue, like the Record of Needs, to have legal status. Integration of the plan with existing plans such as the IEP is important but it should be made clear that the Co-ordinated Support Plan is the primary plan for children with SEN. In the initial consultation Children in Scotland recommended that assessments should be carried out in an environment which is familiar to the child and by people who know and understand the child and have spent a lot of time with him/her. Although the proposals outline this approach it needs to be highlighted more by the Executive and strengthened.

The issue of definition and "Complex Educational Needs" requires further clarification and review. This relates to our earlier comments on definitions being too restrictive. Many children, who may require more than can be provided at school through the staged intervention process, may 'dip out' because they do not fit the definition of 'Complex Educational Needs'. Any future legislation should contain some form of safeguards to prevent this.

Further clarification is required on how the proposals will tackle the current inequity across local authorities in provision and practice. No mention is made of minimum standards or alternative means to ensure equity.

### *Parent Partnerships*

In principal the establishment a parent partnership service sounds like a good idea nonetheless this section requires further clarification and expansion. If a partnership service is established in the local authority area to promote joined up working and provide advice and information to parents Children in Scotland recommends that the advice and information comes from an independent source. If such a service can be provided through a parent

partnership initiative Children in Scotland would welcome and support the proposal..

### *Keyworker*

The concept of the keyworker requires further clarification. For example would the 'named person' advising parents, through a partnership process, be a keyworker or have any relationship with the keyworker mentioned in the pre-school joint assessment team. The Executive's proposals also mention a keyworker at the Future Needs Assessment/Post School Stage. Clarification is required on who does what at each level, when a keyworker is introduced, and how long they stay with each individual family and child.

## **PRE-SCHOOL – EARLY IDENTIFICATION AND INTERVENTION**

In our original consultation process it was very clear that many parents felt unsupported at this stage. As such parents should be involved with the Pre School Intervention teams at the outset. It is sensible that local authorities and health services work together to establish the joint assessment teams in communities. Nevertheless we would be concerned that there is no obligation on nurseries outside of local authority provision to refer to the team. Information needs to be disseminated to the myriad of childcare providers on how to refer to the joint assessment teams if there is a child in their care who they or the parent are concerned about. Mechanisms should be established to enable childcare providers to refer the child to the joint assessment team should a parent be concerned about them.

## **THE FUTURE NEEDS ASSESMENT AND POST SCHOOL**

Acknowledgement of the Beattie Committee proposal that a keyworker be available to help young people who may require additional support to make the transition to post-school education, training or employment is welcomed. The legislation should refer directly to consultation with the young person and their family when decisions are taken on the allocation of a key worker. Consideration should also be given to:

- The stage at which a key worker becomes involved with the young person. For some young people a long lead up time to leaving school may be necessary.
- Who the keyworker is. Where possible the keyworker should be known to the young person and the family and have knowledge of the young persons progress through school.
- How the keyworker links with other professional or key people who have or are involved with the young person and their family

## **SUPPORTING FAMILIES**

In the initial consultation period Children in Scotland found that there was overwhelming agreement that parents and children needed far more support than they were getting. Many parents did not know where to go for information advice and support. Plans to place a duty on education authorities to ensure that information is passed to parents of children with additional support needs and the children and young people themselves are welcome. The right to be accompanied in meetings is welcome although it should be reiterated that there is a need for clarity between a keyworker and a named person as outlined in the proposals.

Children in Scotland would welcome more information on the proposed review of communication with parents when it is available (p21).

## **CHILDREN AND YOUNG PEOPLES PARTICIPATION**

Children should be involved, and their views listened to, throughout the staged intervention and planning process and the Executive's proposals make this clear. During the consultation process Children in Scotland consulted with a number of young people with Special Educational Needs. Their views, particularly in relation to attending meetings, were enlightening:

- It was difficult to concentrate throughout the meeting
- It was important for adults to use the words the children and young people understood and for someone to be available to explain anything they did not understand
- It helped to be prepared for the meeting and to know what to expect
- It helped if meetings had a clear structure and people finished talking about one thing before going on to the next. It was confusing when people got side tracked: it helped to have plenty of time to think about questions.
- It helped if meetings were in a 'child friendly' environment.

The consultation process highlighted the many barriers that children and young people had to overcome to play a meaningful part in meetings. Preparation for meetings, how and where the meetings are held and who attends them are important considerations. What happens after the meetings and how decisions are fed back to the to the children and young people is equally as important.

Children in Scotland would support the production of a good practice guide, based on children and young people's views, of how meetings should be conducted. It is of some concern that the proposals differentiate between children of different abilities and that this is used as a basis for them not attending meetings. A child or young person should not be prevented from attending a meeting if they are willing to do so. Moreover, for those who do not wish to attend there are many alternatives to meetings that could be used to help facilitate the participation of children and young people in decisions, which directly impact on their lives.

## **MEDIATION AND APPEALS**

Children in Scotland welcomes the requirement on local authorities to have in place arrangements for mediation. Together with improved information and communication with parents and the proposed Tribunal, which will hear appeals, independent mediation will be a useful method of resolving some of the disagreements that sometimes arise among parents/carers, the school and/or the local authority.

It will be crucial to issue guidelines to local authorities regarding mediation, including among others, the appropriate stage in a dispute to involve a mediator. Established mediation services recognise the importance of intervening at an early stage of any dispute. However, the experience of Enquire, the national information and advice service for Special Educational Needs, based at Children in Scotland, has been that local authorities prefer to have a chance to resolve any conflict first themselves, before involving an external independent mediator.

Another issue to consider is the credibility, experience and training of the independent mediators. Establishing national minimum standards or a code of practice to which SEN mediation services would adhere would avoid any ambiguity on the professionalism of mediators. Recognised experts in the field of mediation such as the Scottish Mediation Network, SACRO and Mediation UK could assist in drawing up such a code of practice or standards.

The proposal that mediators will be independent is particularly welcome. The success of any mediation service depends largely on the independence and impartiality of the mediators, and how these qualities are perceived by the general public. Children in Scotland believe that neither local authority personnel nor parent support group workers and advocates can be perceived as truly independent and impartial.

Many people currently working in the special educational needs field (examples include local authority education officers, teachers and those working for local or national support groups) mistakenly believe that they are mediators. In reality they are negotiating between parties, using some mediation skills. A distinction should be made of the difference between using mediation skills in the course of one's everyday activities and working as an independent mediator. Therefore the role of the independent mediator must be clearly defined when issuing guidance to local authorities. It is particularly welcome that parents and children whose first language is not English or who are hearing impaired or have other communication difficulties will be able to have an interpreter, signer or other support.

The increased recognition of children and young people's right to participate will also apply to mediation and appeals. Professionals – such as mediators and lawyers – will need to be trained and prepared to include them.

For further information or expansion of any of the comments in this response contact Eddie Follan, Policy Officer at [efollan@childreninscotland.org.uk](mailto:efollan@childreninscotland.org.uk)

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