

Cross-Party Group on Women, Families and Justice

Tuesday 9th May 2023 6-7.30pm (Zoom meeting)

Minute

Children's Rights and Child Impact Assessments

Chair: Rona Mackay MSP

Attended

MSPs

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| Rona Mackay | MSP |
| Audrey Nicoll | MSP |

Invited guests

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| Sharon Stirrat | Social Work Scotland |
| Shona Spence | Scottish Government |

Non-MSP Group Members

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| Adele Hill | Representative of the Community Justice Voluntary Sector Forum |
| Alan Staff | Apex Scotland |
| Anne Pinkman | Co-Secretariat to CPG Women, Families & Justice |
| Aofie Fisher | Stirling University |
| Audrey Mitchell | Fife College |
| Charlotte Riley | Families Outside |
| Dinah Aitken | Salvesen Mindroom Centre |
| Eleanor Lindsay | Perth & Kinross Council |
| Gareth Rose | Scottish Prison Service |
| Georgina Lyttle | Circle Scotland |
| Grace Gracie | Families Outside |
| Heather Manclark | Families Outside |
| Helen Reilly | Queen's Nursing Institute Scotland |
| Janine Bonner | Families Outside |
| Jonathan Sher | Queen's Nursing Institute Scotland |
| Karen Armstrong | Families Outside |
| Kathleen Ramsay | Fife College |
| Kerry Knox | Families Outside |
| Lorna Kettles | Early Years Scotland |
| Mary Campbell | Together – Scottish Alliance for Children's Rights |
| Nancy Loucks | Families Outside |
| Pete White | SCSN |

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| Sarah Rogers | Families Outside |
| Shelia Gordon | CrossReach |
| Shumela Ahmed | Resilience Learning Partnership |
| Stephen Sandham | HMIPS |
| Susan Cross | Families Outside |
| Toni Groundwater | Families Outside |

Apologies

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| Collette Stevenson | MSP |
| Sarah Marshall | Police Scotland |
| Scott McLellan | SPS |
| Jane Brumpton | Early Years Scotland |
| Tracey Thompson | Early Years Scotland |
| Mag Higgins | Justice for Women |
| Kate Philbrick | |

Agenda item 1

Minutes of previous meeting of CPG Women, Families & Justice Nov 2022

- Approval of minutes– Nancy Loucks, Families Outside and seconded by Kerry Knox, Families Outside
- Actions – there were no actions or matters arising from the previous meeting

Agenda item 2

The rights of children with a family member in the criminal justice system - Sarah Rogers (Families Outside)

Sarah provided an overview of the UNCRC in relation to children with a family member in the criminal justice system noting that the rights of this group of children are often overlooked and not upheld at various stages of the criminal justice process. Particular rights and how they are impacted at arrest, during court proceedings including bail and sentencing decisions, during periods of imprisonment, and at release, included: Article 2 (right not to be discriminated against based on the status of the parent(s)); Article 3 (best interest of the child must be a primary consideration in any decision concerning them); Article 8 (right to an identity); Article 9 (right to maintain contact with parent(s)); Article 12 (right to have a voice in any judicial or administrative proceedings affecting them, directly or indirectly); Article 16 (right to privacy); Article 17 (the right to have access to information); and Article 20 (the right to support when the child cannot stay with their parent). It was suggested all attendees can take action to support the rights of children with a family member in the criminal justice system including: using / sharing 'This is Me' child impact assessment toolkit, undertaking CRWIAs of organisational policies and practice, raising awareness of this group of children to help ensure they are recognised and supported, and sharing good practice.

Agenda item 3

Update on UNCRC Bill and implementation progress – Shona Spence (Scottish Government)

Shona provided an update on UNCRC on behalf of Scottish Government considering key provisions of the Bill and key aspects of the Supreme Court judgement which have required amendments to the Bill. Shona noted that the Scottish Government remain fully committed to passing the legislation and it will be brought back to the Scottish Parliament for reconsideration as soon as possible. Talks have been ongoing with the UK Government to help ensure the Bill can be passed as quickly as possible when it is brought back to the Scottish Parliament and to minimise the chance of future challenge to the legislation. Shona noted that despite the delay with the Bill a huge amount of work is going on in relation to implementation and updated the group on UNCRC Implementation Programme, the current support and resources available for public authorities and further resources in development. Shona also signposted the group to a range of resources about UNCRC (links to these resources were shared with the group after the meeting).

Questions /points raised relating to agenda items 2 and 3:

- Jonathan Sher raised the issue of ensuring the rights of people who have underlying conditions are respect – including specifically children with FASD – noting that their rights are often ignored and the CPG need to ensure the rights of this specific group are considered. There was agreement on this from a number of those attending.
- Audrey Nicoll commented on the statistic that only 5% children of with a mother in prison remain in the family home and asked for more context around this. Nancy Loucks explained that this figure came from the Corston report in 2007 and noted that it would be helpful if we had updated figures and that other studies have put this figure at approximately 12%, but noted that it remains the case that children staying in the family home when a mother is imprisoned is the exception rather than the rule.

Agenda item 4

Panel Contributions - Sharing good practice, opportunities and challenges in supporting the rights of children with a family member in the criminal justice system - Sharon Stirrat (Social Work Scotland)

Sharon discussed the rights of children with a family member in the criminal justice system in the context of criminal justice social work (CJSW). Sharon emphasised that criminal justice social work is an adult service noting that this may be the first challenge facing the those working is CJSW as the service is designed around adults not children. Sharon also highlighted that funding for CJSW is ring-fenced and that the money is predominantly there to fund the statutory services required. CJSW takes a person-centred, trauma-informed, human rights based approach – noting that rights are proportional to risks. Sharon noted the following aspects of CJSW services might

be impacted by UNCRC incorporation: justice social work reports, community sentencing, services like bail supervision, and throughcare.

Considering in particular the preparation of social work reports to support sentencing, Sharon noted that this would take into account family circumstances e.g. if there are children / caring responsibilities when giving advice and recommendations. If custody was thought to be likely then the report would consider the impact on partners, children and caring responsibilities should the person get a custodial sentence. Sharon noted that guidance around sentencing reports is currently being reviewed. Sharon highlighted that cases of unexpected custody are very difficult and that CJSW would be working with Children and Families colleagues in relation to arrangements for children and young people. Sharon explained that it is unusual for CJSW to conduct 1:1 interviews with children at the time a report is being written – this is partly due to time constraints. Sharon also noted that CJSW could not take it upon themselves to engage with a child directly without parental permission and would not want to put children in the uncertain position of telling them their parent may or may not go to prison. Sharon noted that there is nothing as detailed as a Child Impact Assessment (CIA) in CJSW reports but they will try to tease out implications for children. Child wellbeing, safety and child protection will always be strong consideration and there will liaison with Children and Families services as appropriate.

Group discussion:

- Kerry Knox asked if assessments by CJSW are not led by the child?
- Sharon stated yes – often CJSW will not have seen the child.
- Nancy Loucks noted that in CJSW reports there is often not much detail of what impact actually means – there is not much information given and asked how can we influence this conversation and encourage greater consideration of this?
- Rona Mackay asked if UNCRC puts a new light on what CJSW do – surely UNCRC means children's voices will have to be heard?
- Sharon noted that there are significant resource issues to do this. CJSW report guidance notes that consideration should be given to the impact on an individual's family but CJSW are not necessarily child experts.
- Kerry Knox commented that the capacity and resource issues are interesting and highlighted that CIAs are led by the child and would not necessarily be the responsibility of SW to complete – the child will decide who they want to speak with. It could therefore be helpful to provide CIAs to CJSW.
- Dinah Aitken commented that this is a very complicated situation with resource pressure and raised the issue of independent advocacy for children – how could this be woven into part of the system?
- Sharon noted that it would need to be looked at whether CJSW is able to do this in terms of skills and resources.
- Anne Pinkman highlighted the videos 'Safeguarding children when a mother is at risk of custody' she produced which were launched during the pandemic. The films were aimed at women, sentencers, advocates /solicitors and CJSW. Anne noted that Community Justice Scotland and the Judicial Institute for Scotland had pledged to use the videos for training and that SPS had committed to showing the films.

ACTION: Anne to check if the 'Safeguarding children when a mother is at risk of custody' films are being used and will send the link to be shared with the group.

- Sharon asked what action the CPG can be taking and raised the 2008 prison resource report and the 2012 Angiolini report which required the Cabinet Secretary to report to Parliament on action being taken and noted this does not happen now. Sharon also raised the Bail and Release Bill currently going through in Parliament and asked how children's views can be incorporated into this?
- Rona Mackay agreed with the points raised by Anne and Sharon.
- Audrey Nicoll commented that there is a lot going on with legislation at the moment, noting the Bail and Release Bill is a step in the right direction in relation to the use of custody, and also highlighting that the Children's Care and Justice Bill will ensure children and young people under 18 are accommodated in secure care as opposed to YOIs, and that the Victims, Witnesses and Justice Reform Bill make changes around the treatment of victims and witnesses.
- Rona Mackay noted that the Victims, Witnesses and Justice Reform Bill will put victims and witnesses at the centre and ensure trauma-informed practice.
- Nancy Loucks picked up on comments relating to the Angiolini report and noted that in relation to the Community Custodial Units for women, only 2 of the 5 recommended have been built and they are not even half full. The CCUs are meant to allow women to be based in the communities they are from which would help support Article 9 UNCRC. How do we address these facilities not being used?
- Rona Mackay offered to draft a letter to the Cabinet Secretary for Justice to find out why the CCUs are not being used to their capacity?

ACTION: Rona to draft letter on behalf of CPG to Cabinet Secretary to enquire about use of CCUs.

- Shona Spence noted that a challenge around UNCRC incorporation is that we don't know what compatibility is going to look like but noted this gives an opportunity to push this issue. In relation to the judiciary we will require new court rules setting out what is required of the judiciary. This provides a space to flag children's voices to the judiciary – they need to look at this in relation to UNCRC.
- Gareth Rose noted in relation to the issue of CCUs that SPS want to maximise their use as they are a fantastic resource and explained that women who move to the CCUs have to meet the criteria in terms of needs and risks. Gareth offered to ask the Women's Strategy Team for a fuller explanation about the use of the CCUs.

ACTION: Gareth to ask for update on the CCUs from Women's Strategy Team and share with the group.

- Lorna Kettle noted that on a recent visit to the CCUs it was raised that it is unlikely the CCUs will ever be full due to the criteria.
- Rona Mackay raised the question of whether the criteria need to be looked at again?
- Toni Groundwater noted that in relation to UNCRC there is a real risk that of the rights of children with a family member in the criminal justice system continuing to be overlooked at the various stages of the justice process – whose responsibility is it to take account of children's rights? Children fall through the gaps and we need to keep this issue on the agenda given the real challenges in implementing UNCRC in this context – there is a real risk of rights being breached.

- Rona Mackay agreed and noted that the CPG need to continue to push on this issue.
- Stephen Sandham expressed HMIPS agreement with the move to ensure no under 18s are held in prisons and noted that HMIPS does look at family contact including family visits, family friendly policies and noted that closed visits should be a very last resort.
- Jonathan Sher noted that in terms of the rights of the child, the CPG could do a huge service by framing this issue in terms of prevention – both primary prevention so people don't end up in custody, and secondary prevention in terms of recidivism. How do we prevent imprisonment thereby protecting rights in the first place?
- Gareth Rose shared details of an invite for group members to visit HMP/YOI Stirling, the new women's facility, on May 23rd.

Agenda item 5

Agency Updates

- Rona Mackay noted there was not time for full agency updates but highlighted a Parliamentary event being held by Families Outside on 30th May around the financial impacts of imprisonment for families.
- Nancy Loucks highlighted the Parliamentary debate that took place on 7th March led by Rona Mackay considering the costs to families of imprisonment and release and noted that the final project report could be found on Families Outside website.
- Rona Mackay noted that she will invite the new Minister for Community Safety to the next meeting of the CPG in September.

ACTION: Rona to invite new Community Safety Minister to next CPG meeting.

Agenda item 6

AOB

Dates of future meetings: Tuesday 5th September 2023 (6-7.30pm)
 Tuesday 5th December 2023 (6-7.30pm)
 Tuesday 5th March 2024 (6-7.30pm)
 Tuesday 4th June 2024 (6-7.30pm)