

Implementation of the Children and Young People (Scotland) Act 2014
Report by Mary Smith, Director, Education, Communities and Economy**1 Purpose of Report**

To provide Council with an update on the implementation of the Children and Young People (Scotland) Act 2014 (the Act).

2 Background

The Act will have wide-ranging effects on services for children and young people in Midlothian and the provisions within the Act come into force at different dates over the next few years. Further information on the Act is available on the Scottish Government website:

<http://www.scotland.gov.uk/Topics/People/Young-People/legislation>

- 2.1** This report gives an update on the key provisions in the Act and the work that is ongoing.

3 Report Implications**3.1 600 hours early learning and childcare for 3 and 4 year olds and entitled 2 year olds.**

Coming into force date: August 2014.

An update on these provisions is contained in the paper "Implementation of the Early Learning and Childcare Provision of the Children and Young People (Scotland) Act 2014" which has also been submitted to 23rd September 2014 Council.

3.2 Free School Meals for Primary 1 to 3 pupils.

Coming into force date: January 2015.

All Primary school pupils in Primary 1, 2 and 3 will be entitled to a free school meal each day and takeup is estimated at 85%. A review of physical and staff capacity has taken place and works commissioned to upgrade some ovens and purchase additional light equipment (tableware etc). The Scottish Government is providing revenue and capital funding and a paper to Council detailing expenditure will follow. Dining room management and supervision is being reviewed in light of this new provision.

3.3 Getting it Right for Every Child

August 2016

To improve the way services work to support children, young people and families, the Act:

- ensures that all children and young people from birth to 18 years old have access to a Named Person;
- puts in place a single planning process to support those children who require it through the Child's Plan;
- places a definition of wellbeing in legislation; and
- places duties on public bodies to coordinate the planning, design and delivery of services for children and young people with a focus on improving wellbeing outcomes, and report collectively on how they are improving those outcomes.

The Scottish Government is currently working to develop guidance that sets out how the Named Person and Child's Plan duties should be taken forward and what children, young people and their families can expect. Outline guidance, setting out proposals for what should be in the final guidance, is available here: <http://www.scotland.gov.uk/Publications/2014/04/5745>. A full public consultation on the guidance is planned for the first quarter of 2015 with the final guidance expected to be published in summer 2015.

Midlothian is actively involved in the Lothian and Borders GIRFEC (Getting it Right for Every Child) Group, which is engaged with the Scottish Government as a test site for developing this guidance.

In addition, the Scottish Government plans to hold a range of engagement events over the coming year which will address issues of practice for GIRFEC as a whole. Midlothian is participating in an Education Scotland project to gauge the level of implementation of the GIRFEC principles. The project will involve the pupils, parents and teachers in two of our primary schools and the findings will be used both locally and nationally to plan for the Act.

As child grows up the Named Person will change from their midwife to their health visitor and then become their Head/Deputy Head Teacher when they start school. Significant work has been undertaken to anticipate the changes that will need to take place in each service and work is progressing. This includes making arrangements to ensure the Named Person service is continuous over school holidays, giving access to the Social Work Management Information System in schools and considering how the role is fulfilled until the young person turns 18.

Defining wellbeing in law will bring with it a change in children's and parents' and carers' expectations of the services they receive and will necessitate revisions to procedures and forms to take account of wellbeing when carrying out assessments. The Children's Services Standards and Quality report will be developed to fulfil the wellbeing outcome reporting requirements.

3.4 Children's Rights and Children's Services Planning

The Act introduces new duties on a range of public bodies, including local authorities, on planning and reporting. Specifically it:

- puts in place new arrangements for children's services plans that best safeguards, supports and promotes the wellbeing of children and young people in a particular area; and

- places the overarching responsibility for the development of plans for services that safeguard, support and promote the wellbeing of children and young people with local authorities and health boards.

In addition, a range of public bodies (again including local authorities) will be expected to provide reports on actions being taken to advance meeting of requirements under the UN Convention of the Rights of the Child. A Scottish Government resource pack has been received and training has been delivered to education staff and residential home staff, and will be rolled out to other services.

Given the common reporting requirements, the Scottish Government is proposing to find ways of combining the implementation duties – for example, through a common reporting format – to ease any administrative burden. They intend to set up a working group to oversee the development of guidance and secondary legislation. The group – with membership drawn from a range of stakeholder bodies with expertise and primary interest in these areas – will set out a work schedule for commencement of the duties, development of guidance and regulations, arrangements for full public consultation and engagement with bodies who will be affected by these duties.

3.5 Provisions to Support Those in Care and Care-leavers

Coming into force date: Earliest from April 2015.

There are a number of significant changes being made to the range of duties and powers that affect those in care and care-leavers. The Act:

- provides for a clear definition of Corporate Parenting, and defines the bodies to which it will apply;
- provides for additional support to be given to kinship carers in relation to their parenting role through the kinship care order and provide families in distress with access to appropriate family support;
- introduces continuing care - an entitlement to stay in a care placement up to age 21, from 2015 onwards;
- extends entitlement to aftercare support from 21 to a young person's 26th birthday;
- sets the eligibility for continuing care and aftercare to 'being in care at age 16 or above'; and
- puts Scotland's Adoption Register on a statutory footing.

This series of inter-related areas will entail the development of guidance and secondary legislation by the Scottish Government. They will undertake stakeholder engagement and formal consultation in due course.

Regulations are being drawn up to: specify the groups of young people between 16 and 26, who will be eligible for continuing care from corporate parents; describe those care-leavers who are eligible for aftercare; define aftercare 'eligible needs'; specify an upper age limit for eligibility for continuing care; specify a period the expiry of which will be the end of the local authority's duty to provide continuing care; and make provision about when or how a local authority is to consider that either providing or continuing to provide the care would significantly adversely affect the welfare of the

person. Regulations are also being drawn up to specify kinship care assistance to be provided to eligible kinship carers and work preparing for this will be undertaken once the detailed is provided.

The duty to provide families in distress with access to appropriate support comes into force in August 2016. Intensive family support is already available in Midlothian.

In due course, as required, regulations on other related parts of the Act – including corporate parenting – will also be drawn up. Development of the Corporate Parenting Guidance is being led by CELCIS in collaboration with the Scottish Government, and further details of this work will be set out soon.

Midlothian already uses the Scottish Adoption Register and no further action is anticipated to be required for it. The other elements of the Act relating to looked after children and young people are being overseen by the Corporate Parenting Board. Although much of the planning cannot be done until the further regulations are laid and guidance made available a review of the Through Care and After Care team has taken place taking cognizance of the Act. Work has been done to develop an anticipated cost for the extension of the right to remain in care and it appears that the original funding announced by the Scottish Government may be an underestimation but further analysis will be carried out.

3.6 Other provisions

The Act extends the time for Scottish Ministers to call in school closure proposals from 6 to 8 weeks, requires local authorities to assist with children's hearings, which Midlothian already does, and allows appeals to the sheriff against local authority decisions to place children in secure accommodation.

3.7 Resource

The Scottish Government has stated that the costs to local authorities of implementing the Act will be fully funded, and has advised of the distribution of funds for Early Learning and Childcare, detailed in the separate paper to Council.

Final funding for some provisions has not been announced at this point and details of expenditure will be provided to Council in due course.

Planning and monitoring will still be required to ensure the most effective use of resources and that the Council does not unintentionally commit more resources than are available.

3.8 Risk

The Act applies legislative requirements to the Council and as such, should the Council not meet the requirements, it could be open to legal challenge and judicial review. Ultimately, the Act gives Scottish Ministers the power to transfer certain Council's assets and responsibilities to another body should it fail to implement the provisions. It is therefore imperative that resources are made available, as and when necessary, to implement the provisions of

the Act and further papers will be presented to Council as and when necessary.

The Scottish Government is in talks with COSLA on the appropriate level of funding for some of the provisions, such as capital funding for 2015/16 for early learning and childcare, Named Person funding for 2015/16, and it will be important to contribute to these discussions in order to secure the necessary funding.

3.9 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☒ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☒ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

3.10 Key Priorities within the Single Midlothian Plan

Implementing the Children and Young People Act is a legislative requirement of the Council and its partners and is reflected in the 2014/15 Single Midlothian Plan priority to “Improve outcomes for children and young people by continuing to implement Getting it Right for Every Child and putting in place changes required by the laws which go with it”. The Act is underpinned by the Scottish Government’s priority for Early Years and the adoption of a preventative approach, both of which are echoed in the Single Midlothian plan.

3.11 Impact on Performance and Outcomes

The successful implementation of the Act should improve outcomes for children and young people across Midlothian, and particularly those who need additional support through the Named Person, who have a Child’s Plan or who are looked after.

In the longer term (and it will be some years before the effects of some of the provisions will be evident) it is intended to reduce the need for intervention by the Council and its partner agencies and particularly reduce the need for late, intensive and expensive intervention.

3.12 Adopting a Preventative Approach

Many of the provision of the Act are preventative, such as early learning and childcare and free school meals for primary 1 to 3.

3.13 Involving Communities and Other Stakeholders

The Scottish Government involved a wide range of stakeholders in its consultation on the Bill. In addition, they plan to hold a range of engagement events over the coming year on appropriate provisions such as issues of practice for GIRFEC as a whole.

The Council and partner organisations in Midlothian are now working together to implement the provisions of the Act. Implementing each

provision will involve different groups of stakeholders, who will be involved at the appropriate times.

3.14 Ensuring Equalities

A partial equality impact assessment (EQIA) was included in the public consultation on the Bill carried out by the Scottish Government in summer 2012. The government's final EQIA built on and updated this document to reflect responses to the consultation and extensive discussion with stakeholders that was undertaken as part of the EQIA process. The EQIA considered impacts by looking at the Bill in relation to the protected characteristics: age, disability, race, religion or belief, sex, sexual orientation and gender reassignment.

The final equality impact assessment is available here:

<http://www.scotland.gov.uk/Topics/People/Young-People/legislation/impact>

3.15 Supporting Sustainable Development

Scottish Government is committed to supporting the Act and has stated that the implementation by local authorities will be fully funded; however this will need to be closely monitored.

3.16 IT Issues

The Named Person provision will require the Social Work Management Information System, Framework i, to be available in schools. As the schools IT operates on a different network to the Corporate network this has required the involvement of IT and a pilot is taking place to test the technical and procedural solutions devised before the wider roll-out takes place.

4 Summary

The Children and Young People (Scotland) Act 2014 is a significant Act that will have a widespread effect on outcomes for children and young people in Midlothian, and involve changes in the way that the Council and its partners work. The first element of the Act on Early Learning and Childcare came into force in August 2014 and the other provisions will come into force over the next few years. Progress is being made preparing to put these in place and will continue for some time.

5 Recommendations

Council is asked to:

- Note the developments towards implementation of the Act and the work of the Council and its partners
- Request a further report prior to the end of 2014/15 giving updates on implementation, in particular highlighting any additional resources required or obstacles to progress.

2nd September 2014

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Declaration Box

Instructions: *This box must be completed by the author of the report. The box will be copied and saved by the Council Secretariat who will delete it from the report prior to photocopying the agenda.*

Title of Report: **Implementation of the Children and Young People (Scotland) Act 2014**

Meeting Presented to: **Council, 23rd September 2014**

Author of Report: **Magnus Inglis**

I confirm that I have undertaken the following actions before submitting this report to the Council Secretariat (Check boxes to confirm):-

- ☒ *All resource implications have been addressed. Any financial and HR implications have been approved by the Head of Finance and Integrated Service Support.*
- ☒ *All risk implications have been addressed.*
- ☒ *All other report implications have been addressed.*
- ☒ *My Director has endorsed the report for submission to the Council Secretariat.*

For Cabinet reports, please advise the Council Secretariat if the report has an education interest. This will allow the report to be located on the Cabinet agenda among the items in which the Religious Representatives are entitled to participate.

Likewise, please advise the Council Secretariat if any report for Midlothian Council has an education interest. The Religious Representatives are currently entitled to attend meetings of the Council in a non-voting observer capacity, but with the right to speak (but not vote) on any education matter under consideration, subject always to observing the authority of the Chair.