

To: Social Work Sub Committee (Operations and Services)		Subject: Children (Scotland) Act 1995
From: Jim Dickie Director of Social Work		
Date: 16 Dec 1996	Ref: SP/KT	

1.0 Purpose of Report

To advise the Committee on further consultation documents which have been issued and to ask for approval of responses to the Scottish Office (see APP1).

- * Draft Guidance on Registration and Inspection of Certain Schools
- * Draft Children's Hearings Transmission of Information etc (Scotland) Regulations
- * Draft Secure Accommodation (Scotland) Regulations
- * Draft Refuges for Children (Scotland) Regulations
- * Draft Childrens (Reciprocal Enforcement of Prescribed Orders etc (England and Wales and Northern Ireland (Scotland) Regulations 1997
- * Draft Guidance on Short Term Refuges for Children at Risk of Harm
- * Draft Guidance on Children and Their Needs - Supporting Children and Families

2.0 Draft Guidance on Registration and Inspection of Certain Schools

2.1 This guidance is part of a package of guidance issued to assist the implementation of the Children (Scotland) Act 1995. It places a new duty on those responsible for independent and grant aided schools to register with the local social work authority in whose area the school is situated, where the whole or a substantial part of whose functions is to provide personal care or support for children. It also places a new duty on the Social Work Authority to register such establishments and to visit them at regular intervals. Other residential schools which do not provide personal care or support may register on a voluntary basis.

The guidance deals with registration requirements including the fitness of the manager of the establishment as well as the suitability of the establishment in terms of accommodation, function and objectives, good basic care and providing children with a feeling of safety while living there. There will need to be close collaboration with the Education Department where the establishment is providing education, and liaison with HM Inspectors of Schools in relation to schools registered under Sect 34.

3.0 Draft Children's Hearings Transmission of Information etc (Scotland) Regulations 1997.

3.1 These regulations govern the passing on of relevant information about young people subject to supervision requirements to persons who have the care of that child. The local authority will now be required to give a copy of reports to carers and also to provide them with any other information which comes into their possession during the course of the supervision order.

- 3.2 Where the hearing make a requirement which the local authority is not able to effect immediately, the timescales for making alternative arrangements are now 22 days instead of 21 days.
- 3.3 This guidance emphasises the responsibility of the local authority to move a child to the designated establishment or carer when a requirement has been made.
- 4.0 Draft Secure Accommodation (Scotland) Regulations
- 4.1 These regulations empower the Secretary of State to make regulations with respect to the placing in secure accommodation of any child who is being looked after by a local authority. The same principle applies with regard to previous regulations which is that a child placed in secure accommodation without the authority of a Sheriff or children's hearing should be brought before such a person or body at an early date.
- 4.2 Regulation 4, which is the obligation on the local authority to ensure that the child's care shall be conducive to his best interests, has been replaced with a new test of ensuring that the welfare of the child is safeguarded and promoted.
- 4.3 The maximum period during which a child may be kept in secure accommodation without the authority of a children's hearing or a Sheriff has been reduced from 7 days to 72 hours.
- 4.4 Regulation 6 deals firstly with timescales for the notification to parents of the reason for their child being placed in secure accommodation and secondly with the views of the Chief Social Work Officer and the person in charge of the residential establishment as to the need for the child to remain in secure accommodation.
- 4.5 Regulation 15 places a duty on local authorities to set up a 'secure placement review panel' to advise on the need for the child's continued detention in secure accommodation.
- 5.0 Draft Refuges for Children (Scotland) Regulations
- 5.1 Section 38(2) of the Children (Scotland) Act 1995 empowers the Secretary of State to make regulations concerned with the provision of refuges for children who appear to be at risk and who request refuge.
- 5.2 The regulations empower a local authority to designate as a refuge one of their own residential establishments or a foster household, subject to the authority being satisfied that the managers are fit and the establishments or households have suitable accommodation and facilities.
- 5.3 Where an establishment or household is approved the local authority must issue them with a certificate.
- 5.4 The regulations specify the timescales for the provision of refuge of 7 days or a maximum of 14 days.
- 6.0 The Draft Childrens (Reciprocal Enforcement of Prescribed Orders etc (England and Wales and Northern Ireland)(Scotland) Regulations 1997
- 6.1 These regulations deal with the transfer of care orders from England and Wales to Scotland.
- 6.2 Schedule 1 lists the orders under The Children Act 1989 and the Children and Young Persons Act 1969 which will be transferable to Scotland.

7.0 Draft Guidance on Short Term Refuges for Children at Risk of Harm

- 7.1 This guidance outlines the good practice which should take place around the admission of a young person to a refuge. Some of the issues are: that a young person under 16 years cannot be kept in a refuge if his family do not consent; that a child should not be required to disclose information about his or her circumstances as a condition of access to a refuge; that providing a child with refuge does not affect the legal status of the child.
- 7.2 Refuge is designed to be a short term solution within which children can be helped to make decisions about what to do next. Most children will return to their homes and families. The objectives of the refuge should include the return of the young person to his or her family unless this is not consistent with his or her welfare.
- 7.3 Short term refuge may be provided only at the child's request and when the child appears to be at risk of harm.

Where in some cases the child appears to be in need of care or protection, the child can be referred to the reporter or a child protection order can be sought.

8.0 Draft Guidance on Children and their Needs - Supporting Children and Families

- 8.1 As well as their general duty to promote social welfare (under Sect 12 of the Social Work (Scotland) Act) local authorities have a specific duty under Sect 22 of the Children (Scotland) Act to safeguard and promote the welfare of children in need and promote the upbringing of children in their families by providing a range and level of service appropriate to the children's needs.

The act refers to a child in need as being in need of care and attention because:

- a he is unlikely to achieve or maintain or to have the opportunity of achieving or maintaining a reasonable standard of health or development unless the local authority provides services for him under the Act
- b his health or development are likely to be significantly impaired unless such services are so provided
- c he is disabled or
- d he is affected adversely by the disability of any other person within his family.

- 8.2 Local authorities must assess the overall needs of children in their area in order to decide what range and level of services they should provide. Such services will be included in the Childrens' Service Plan.
- 8.3 Local child protection procedures should support a measured and appropriately targeted response to the range of referrals of children who may be at risk. A minority of these referrals will warrant urgent referral to the police for investigation and joint action with the police. Local procedures should be flexible so that, as additional information becomes available, families can be diverted away from the child protection system as soon as this is no longer appropriate to the needs of the child.
- 8.4 Day Care Services are a major source of support for families and children. Local authorities have a duty under Sect 27 of 1995 Act to provide day care for children in need who are aged 5 or under. In addition local authorities have a duty to provide appropriate care for children in need within their areas outside school hours and during school holidays.

8.5 Co-operation between agencies and departments should be an integral part of the planning and delivery of support services. Local authorities, health boards and trusts have a duty to comply with requests by a local authority for help in the exercise of their functions.

8.6 Local authorities should develop statements of standards as benchmarks against which users can assess the quality of the service they receive.

9.0 Recommendation

The committee is asked to:

- 1 Note these comments on the key issues.
- 2 Approve the responses to be sent to the Scottish Office.
- 3 Instruct the Director of Social Work to report to the Social Work Committee on the resource implications as they become known.



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Director of Social Work

NORTH LANARKSHIRE COUNCIL

RESPONSE TO DRAFT GUIDANCE ON REGISTRATION AND INSPECTION
OF CERTAIN SCHOOLS

- Sect 2.5, 2.6,
2.7 and 2.8 All schools which provide accommodation will provide a degree of personal care or support and all schools should be registered under the terms of this act. It is not helpful to suggest that time is at the discretion of the local authority and it is not clear in matters of dispute about registration how those issues will be resolved further clarification is necessary.
- 5.2 If the registration of schools is to be standardised throughout Scotland then further guidance is required for local authorities regarding the standards to be used for determining a persons fitness and staff selection procedures.
- 5.4 It is not clear how this section relates to section 3.8 which says that at present there are no fees payable for the registration of any children's residential establishments. Sect 5.4 states that the local authority may cancel registration if the annual fee for the continuation of registration has not been paid on the due date. Guidance should be given on whether local authorities can charge for registration and what the fees should be.

Standards for Registration and Inspection

- Sect 8.1 Guidance should be given on the frequency of monitoring and publishing of reports with regard to Registration and Inspection.

NORTH LANARKSHIRE COUNCIL

RESPONSE TO DRAFT CHILDREN'S HEARINGS

(TRANSMISSION OF INFORMATION ETC) (SCOTLAND) REGULATIONS 1997

There are no comments on this document.

NORTH LANARKSHIRE COUNCIL

RESPONSE TO DRAFT SECURE ACCOMMODATION (SCOTLAND)

REGULATIONS

- Pg 5 Reg 5 The reduction in the period of detention is to be welcomed. It is important to note this is not just about standardisation of procedures but about good practice and the young person's needs.
- Pg 11 Reg 11 It is to be welcomed that the review is widened to a full review hearing. The review should look both at the needs of the child and the conditions for detention.
- Pg 14 Reg 15(2)b Where conducting a review those invited should also include relevant persons as well as parents.

The information on the operation of the secure review panel is too limited and more information should be available in the guidance. There needs to be greater clarity around roles, tasks and responsibilities of the Panel. There is scope to consider including as members of the Panel Children's Rights Officers and/or representatives from Who Cares.

NORTH LANARKSHIRE COUNCIL

RESPONSE TO THE DRAFT REFUGES FOR CHILDREN (SCOTLAND) REGULATIONS

Designation of refuges: Local Authority Establishments and Foster Households

Pg 3 Reg 3(b) As young people often seek refuge with friends or relatives it would be useful to enable flexibility around the need to place young people in approved households.

Pg 3 & 4 Reg 4 It needs to be clarified what a suitable place for refuge is and a suitable person to have responsibility for a child is.

Pg 6 Reg 8 Requirements where designation or approval in force and review of
Pg 8 Reg 9 designation or approval.

There is no guidance about how to review the facilities provided.

Reg 8 (4)(b) It may be difficult to provide information about the young person as they may not wish to divulge this. It may therefore be difficult to identify who has responsibility for the young person.

NORTH LANARKSHIRE COUNCIL

RESPONSE TO THE DRAFT CHILDREN PRESCRIBED ORDERS ETC

(RECIPROCAL ENFORCEMENT OF PRESCRIBED ORDERS ETC

(ENGLAND AND WALES AND NORTHERN IRELAND))(SCOTLAND) REGULATIONS 1997

Pg 6 Reg 41 Transfer of supervision requirements etc from Scotland to England and Wales

It should be made clear to whom the supervisory responsibility is transferred when a child is under the education supervision of the local authority; that is whether this would be the Social Work Department or the Education Department.

NORTH LANARKSHIRE COUNCIL

RESPONSE TO DRAFT GUIDANCE ON SHORT TERM REFUGES

FOR CHILDREN AT RISK OF HARM

- Pg 3 1 It is not clear in the first sentence what "persons carrying on residential assessments" means.
- 2 * There is no such word as "disapplied" in the dictionary. it is not a useful term.
- * Clarification is needed on what would be exceptional circumstances in relation to extremely the period of refuge from 7 days to 14 days.
- * It is not clear whether a child could approach a voluntary organisation or independent organisation and ask for refuge and be offered it without recourse to the local authority. This needs clarification.
- * It is not clear how often the 7 day or 14 day refuge could be repeated and at what intervals. This requires clarification.
- * Clarification is needed on who is authorised to give consent to a child under 16 years being offered refuge.
- * It is not clear how a local authority would establish if a child were at risk of harm if the child is not required to disclose information about his or her circumstances as a condition of access to a refuge.
- Pg 4 * It is not clear why the guidance talks mainly about children running away as it is more likely that a child who is in the throes of confrontation with a parent or argument with care staff will ask for refuge.
- Pg 5 6 * It is not clear who will meet the costs of providing refuge for a child who originates outwith the geographical location of the refuge especially when the refuge may be a voluntary or independent residential establishment which the child has contacted direct.
- * It is not clear why all carers need to be formally approved if the carer is a relative or friend.
- * There is no guidance about payment for this service or resource if provided by a carer.
- Pg 8 17 It is not clear what is meant by the 'family living at some distance'
- Pg 9 20 The guidance given in this section to:
- * explore the nature of the problem
- * find out whether and in what way the child is at risk of harm is contrary to advice given earlier which stipulates the child does not need to disclose information about his circumstances.
- Pg 16 39 * It is not clear under what section of the act the authority may place a child 'in refuge' with a relative or friend. This should be clarified.

NORTH LANARKSHIRE COUNCIL
RESPONSE TO CHILDREN IN NEED

General Comments

1.0 North Lanarkshire welcomes the balance that has been achieved in the draft between using child protection procedures and supporting families to care for their children.

It also welcomes the emphasis on professional judgement and the recognition of the importance of sound decision making.

2.0 The guidance should attempt to give some assistance to authorities on how to define a child in need. As soon as the attempt is made to produce criteria, it becomes clear that the concept may stigmatise families. However if there is no prioritising, scarce resources cannot be used to the best advantage.

Specific Comments

Pg 3 Sect 5 The rewording of the terminology in Sect 53 is inaccurate without adding anything of value to its understanding. If a local authority consider compulsory measures of supervision are required they must refer the child to the Reporter.

Pg 5 Sect 12 To be helpful, some definition of significant should be attempted to indicate when at the screening stage, an immediate decision should be taken to invoke the child protection procedures. All cases involving immediate risk to life or limb and those where the information suggests emergency measures may require to be used should be dealt with as child protection cases. All others even where concern is being expressed about the welfare of the child should proceed either to the stage of making further enquiries or in co-operation with the parent, to a child in need assessment.

Pg 9 & 10
Sect 22 In order that staff and users will understand assessment arrangements, it will be important that other information is offered, in ways which can be understood by different cultures.

Pg 11 & 12
Sect 28 The third sentence needs redrafted 'social workers operate within accountable, political organisations and decisions are the responsibility of agencies and not individuals'. Delete the next sentence as it does of course constrain the exercise of free standing professional judgement.

Pg 14
Sect 35 The first sentence needs to recognise that the local authority cannot meet all need and it would be helpful to add "within the resources and services available".

Pg 15 The provision of services under the Children (Scotland) Act is a local authority responsibility, so it would be helpful for a paragraph to be inserted here, locating this responsibility clearly, rather than going on to suggest that Social Work support is the single source. It should be made clear that each Department is responsible for facilitating access to its services and not that Social Workers are charged with this facilitating role.

Pg 28
Sect 79 It would be helpful for the guidance to quote the reference to any circulars of guidance that have gone out to Health Boards and Trusts in relation to their response to local authority requests for services.

Pg 29
Sect 81 The second sentence needs to read "effective support for families requires resources from all Departments".