20 October 2011

Terry Shevlin
Clerk to:
Education and Culture Committee
Scottish Parliament
Edinburgh
EH99 1SP

Additional Information from Barnardo's Scotland on
looked after and accommodated children and access to advocacy services

Dear Mr. Shevlin

Following a meeting between Stewart Maxwell MSP and staff from Barnardo's Scotland’s Take Note service on Tuesday 11 October I have drafted some information on looked after and accommodated children and access to advocacy services, which Mr. Maxwell requested.

As a result of Education (Additional Support for Learning) (Scotland) Act 2009

- The Scotland-wide Take Note Advocacy Service was established for parents and young people (aged 16/17) who have grounds to make a reference to the Additional Support Needs Tribunal for Scotland (ASNTS). The service, a partnership between Barnardo’s Scotland and the Scottish Child Law Centre, became operational on the 15th November 2010.
- Children who are looked after by a local authority will automatically be assumed to have additional support needs. Education authorities must consider whether each looked after child or young person for whose school education they are responsible requires a co-ordinated support plan (CSP)

To make a reference to the ASNTS (and to access the Take Note Advocacy Service) you have to be:

- A parent or guardian of a child with additional support needs (this could include a local authority representative where a child is looked after and accommodated by a local authority)
- A young person aged 16 or 17 with additional support needs
- A parent or guardian of a young person aged 16 or 17 who is deemed not to have the capacity to lodge the reference themselves.
These criteria are problematic for looked after and accommodated children and young people aged under sixteen for the following reasons:

- the local authority role as corporate parent may conflict with its service provider role, especially regarding challenges to assessment or provision of ASL.
- to access the tribunal process it would require the corporate parent (likely to be a local authority staff member) to raise a reference against their own authority who are likely to be responsible for their child’s education. This is a clear conflict of interest both for the staff member and the local authority.

**Take Note**

As of the 1st October 2011 Take Note has received forty six referrals for advocacy/representation at various stages of the ASNTS process. Forty five of these referrals have been made by parents of a child with ASN whilst one has come from a sixteen year old who was supported to make the referral by their parent. As yet we have not received any referrals regarding children who are looked after and accommodated despite actively promoting the service to all local authorities and through our other advocacy services in Scotland specifically **Hear 4u**.

Barnardo’s believes that

- Children aged 12 upwards who are deemed to have capacity should have the right to lodge their own reference to the ASNTS enabling them to have access to independent advocacy to assist them through the process.
- Local authorities should produce information on the number of looked after and accommodated children who have co-ordinated support plans, Individual Education Plan (IEP)
- More awareness of the 2009 act is required especially amongst staff working with looked after and accommodated children.

I have also attached a copy of a recent research report carried out by Barnardo's Scotland and funded by the Equality and Human Rights Commission Scotland. The scoping study looks into the rights of looked after children with additional support needs (ASN) in Scotland and should be of interest to the Committee in its inquiry.

We hope the committee find this additional information of use. We would be delighted to meet with the committee to discuss any of these issues or those raised in our main submission.

Yours sincerely

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