22 May 2013

Dear Stewart,

Inquiry into decision making on whether to take children into care

I would like to begin by thanking you, and the Education and Culture Committee, for your consideration of this important issue, and for your ongoing interest in matters affecting looked after children.

As you are aware from our previous correspondence on this matter, the Scottish Government is committed to improving the life outcomes of all children and young people. We want Scotland to be the best place in the world in which to grow up. For that aim to be met for looked after children, we know that the decision making processes with which they are involved must be absolutely fit for purpose – ensuring that any intervention is the right one, provided by the right people, at the right time.

The Committee has rightly identified the importance of early intervention, and of universal services in supporting children and families, if children are to be able to stay with their birth parents. Two of the key principles underpinning the Scottish Government’s programme of public service reform for improving service outcomes for the people of Scotland are a decisive shift towards prevention; and greater integration of public services at a local level – driven by better partnership, collaboration and effective local delivery. These principles are central to the looked after children agenda.
The Scottish Government launched the Early Years Collaborative (EYC) in October 2012. The objective of the EYC is to accelerate the conversion of the high level principles set out in Getting it Right for Every Child (GIRFEC) and the Early Years Framework into practical action which delivers tangible improvement in outcomes and reduces inequalities for Scotland's vulnerable children; puts Scotland squarely on course to shifting the balance of public services towards early intervention and prevention by 2016; and sustains this change to 2018 and beyond.

In the same month, we launched the National Parenting Strategy, which involves a proactive and dynamic approach to supporting the involvement of parents and carers in decisions and services that affect children, by providing support to families when they need it.

The rate of increase in the total number of looked after children continues to slow, with an increase of less than 1% between 2011 and 2012. The latest Children Looked After Statistics (March 2013) show a continuing increase in the proportion looked after in foster and kinship care over the past 5 years, with an overall decrease in numbers of children looked after at home. At the same time, the proportion of looked after children starting to be looked after under one year old is increasing – and children are ceasing to be looked after at younger ages. This suggests that public authorities are moving more quickly to identify risk and intervene.

We are moving in the right direction, but there is no room for complacency. The Scottish Government believes that full implementation of GIRFEC will go a long way to addressing many of the concerns highlighted in the Committee's report. The role of the Named Person is central to identifying at an early stage possible risks to a child's wellbeing, and facilitating a joined up, collaborative approach where an intervention is required. As the Committee has recognised, embedding the Named Person role in Universal Services, countrywide, is of crucial importance.

That is why the recently introduced Children and Young People Bill will put key aspects of GIRFEC – including the role of the Named Person, and the Child’s Plan – on a statutory footing. The Bill introduces a statutory requirement for public bodies to work together, to plan and deliver their services, so that they advance the wellbeing of children and young people; and to report on what this means for children and young people in their area through a common set of high level outcomes.

Taken together, these aspects of GIRFEC dramatically enhance the ability of those working with children to identify the need for intervention at an earlier stage, and to enable prompt and effective action at that stage.

The Children and Young People Bill contains additional measures which will strengthen support for looked after children, young people and care leavers, and which have relevance to the issues raised in the Committee's report, including:

- requiring that Local Authorities extend the period of support to young people leaving care up to and including the age of 25;
- applying a new corporate parenting duty to corporate parents;
- providing additional support to kinship carers who have obtained a kinship care order;
- placing a duty on local authorities to provide families in the early stages of distress who seek help, with appropriate forms of counselling or support interventions; and
- placing Scotland's Adoption Register on a statutory footing.

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I am pleased to attach the Scottish Government's response to the specific issues raised by the Committee in its interim report, and I look forward to the Committee's further considerations on this important matter.

AILEEN CAMPBELL
Issue 1: The complexities of the decision making processes

We believe that there is still scope for simplification of the landscape. We would therefore welcome a response from the Scottish Government on areas where this can be achieved. In order to provide greater clarity to decision makers and, equally importantly, those affected by the decisions, we invite the Government to clearly demonstrate how the different systems fit together. (paragraph 29)

The Scottish Government recognises that the decision-making landscape can be complex. Given the significance of the decisions at stake this may, to some extent, be inevitable. We are nevertheless seeking to reduce complexity wherever possible, and to bring processes closer together, in a number of ways.

In the short term, we are refreshing the national child protection guidance, taking full account of the importance of providing a clearer fit with children’s hearings and other looked after children processes.

In addition, the commencement of the Children’s Hearings (Scotland) Act 2011 will bring together in one place all of the legislation which applies to children’s hearings. It also contains the law relating to child protection orders. Panel members will be fully trained in the provisions of the 2011 Act and this will complement the training they already have on decision making for children and young people, child protection and permanence. The Scottish Government is confident that panel members have the necessary skills, knowledge and experience to continue to make decisions in the best interests of children.

The Scottish Government sees Getting it Right for Every Child (GIRFEC) as the unifying factor in these different child support systems. In the longer term, we are ensuring that every child and young person has access to the Named Person, through the Children and Young People Bill, which – along with the implementation of GIRFEC more generally, and the role of the Lead Professional – will provide the continuity of service support and provision for children experiencing these different processes.

We are also reviewing our approach to Looked After Children and child protection more generally, over the long term, to take full advantage of the statutory embedding of Named Persons and the Child’s Plan.

We recognise that there is a job to be done in explaining more clearly, the way in which processes relate to one another. Local authorities have a role in ensuring that the children and families with whom they work understand the decision making processes affecting them. We will work with local authorities to identify and share best practice in this area.

We are also working on a mapping process for the interaction between these complex child support processes and the court system. We will consider how best to
communicate how these systems fit together, to those children and families who are involved.

**Issue 2: Early intervention and the preventative spending agenda**

We agree that support for care leavers is crucial and consider there is a need for clearer tracking of the outcomes of care leavers from 16 to 19. (paragraph 33)

The Scottish Government agrees with the Committee and is committed to ensuring that care leavers are supported in their transition to independent living when they are ready to do so. The unfortunate reality is that tracking the outcomes of care leavers is complex. However, achieving the best possible outcomes for looked after children and being able to demonstrate and measure those outcomes, has to be at the heart of what we do.

73% of young care leavers had a pathway plan in 2012. That is an increase of 16% from 2011, and the highest ever rate since we started collecting this information in 2004. The percentage of care leavers with pathway coordinators has increased from 55% in 2007 to 73% in 2012. This means that in Scotland, more care leavers than ever have the professional support that they need at one of the most vulnerable points in their lives.

By requiring that Local Authorities extend the period of support to young people leaving care up to and including the age of 25, the Children and Young People Bill will further increase the numbers of young people accessing appropriate support via their pathways co-ordinator, which will allow us – in due course – to track the outcomes for care leavers more effectively.

Further information regarding our plans for measuring outcomes for looked after children is provided in response to paragraph 80 of the Committee’s report.

We invite the Government to provide examples of how preventative measures can best be used to break the inter-generational cycle of children becoming looked after and having poor outcomes and, in particular, to prevent children moving from care to prison or homelessness. (paragraph 35)

The Scottish Government recognises that focusing on preventing problems by intervening earlier is not only the right approach to many of the social and other issues facing us in Scotland today; it also secures better value for the tax payer. It will help to tackle persistent inequalities and ensure the sustainability of our public services and contribute to a reduction in demand for a range of acute services over time.

Clearly, there is no single solution for meeting the complex and various needs of all children and young people, and their families. There are, however, a number of examples of well-evidenced interventions which seek to break the inter-generational cycle of children becoming looked after and having poor outcomes:
• **Family Nurse Partnerships** are associated with significant benefits for vulnerable young families, across a range of outcomes, including: reductions in children’s injuries, neglect and abuse; improved parenting practices and behaviours; and a reduction in arrests and criminal behaviours for both children and mothers.

• Group-based parenting programmes such as **Triple P** and **The Incredible Years** have an impressive track record in strengthening parents’ own sense of self-efficacy, and helping parents to address negative behaviour in the early years, translating to better long term outcomes for the children involved. The Scottish Government made a commitment through the National Parenting Strategy, to fund these programmes for parents of all 3 and 4 year old children who display particularly difficult behaviour.

• **Multisystemic Therapy** (MST) is a an intensive family- and community-based intervention, which focuses on empowering parents or carers to solve current and future problems. It has an extensive evidence base for improving family relations and functioning, and working with adolescents to keep them at home, in school and out of trouble. As was noted in written evidence from the Scottish MST Managers and Supervisors Group, the Fife and Glasgow MST Services are being used specifically for young people who are at high risk of being taken into care.

The efficacy of these approaches is underpinned by a number of key principles, which are transferable to other preventative interventions:

• the establishment and maintenance of strong, trusting relationships
• early and sustained involvement
• strengths/assets-based approach
• whole family involvement

These key ingredients for success informed our thinking in relation to Part 8 of the Children and Young People Bill, which places a duty on local authorities to assess children who are at risk of coming into care for access to interventions such as family mediation or family group conferencing support. The intention of this measure is to offer intensive family support at an early enough point in the breakdown of a family to stabilise the care environment and offset or reduce the risk of a child eventually becoming looked after.

We invite the Scottish Government to advise us whether it supports Perth and Kinross in undertaking this exercise and whether it will encourage similar exercises elsewhere. (paragraph 41)

The Scottish Government recognises the excellent work that Perth and Kinross do in this sensitive area. This supports the importance of services focusing on early intervention activity, working together effectively at the earliest stages to help children and families and not waiting for crises – or tragedies – to occur.
Following a recent mapping exercise of child protection procedures, many other local authorities have inter-agency protocols in place for children and families affected by problematic parental alcohol and/or drug use.

The National Guidance on Child Protection, published in December 2010, sets out expectations for local risk assessment procedures to be in place - including where children are at risk from problematic parental alcohol or drug use. The Scottish Government has also recently published (April 2013) updated problematic alcohol or drug use guidance, Getting our Priorities Right, which provides further advice for all child and adult service practitioners working with vulnerable children affected by problematic parental alcohol and/or drug use. This includes advice on assessing risks and improving outcomes – and the importance of multi-agency working to deliver a co-ordinated response by services that identifies and meets all of the needs of children and families.

We believe that support for children looked after at home is an important aspect of improving outcomes and invite the Government to provide an update on the specific actions it has and is taking to ensure the provision of greater social work support to looked after children at home. (paragraph 44)

The Scottish Government is committed to improving outcomes for children who are looked after at home. Clearly, social work has a key role, but we believe it is the responsibility of all corporate parents to work together in achieving this aim. Our focus is on making the support provided to children more effective and shifting resources away from crisis driven, high tariff interventions towards earlier, effective, evidence based interventions.

A number of activities have contributed to our work in this area:

- The Minister for Children and Young People has hosted a two part Summit for key stakeholders, focusing on improving outcomes for children looked after at home. Through the events we have identified effective interventions; shared good practice and promoted collaborative working to improve assessment and care planning. At the most recent event last week, attendees explored improvement methodology, and were invited to identify a change to implement within their own working environment. We will seek feedback on participants’ experience of such change, and are establishing an online Knowledge Hub, to facilitate sharing of good practice and ideas for improvements. We will follow up on the national Summit with a series of regional events, around the end of the year.

- We are continuing to develop the evidence base around the care histories of children who are or have been looked after at home, and are exploring options for research with SCRA into the effectiveness of panel decisions for children looked after at home and the quality of assessments and associated care plans.

- We are working with Children’s Hearings Scotland to develop panel member training on the use of home supervision requirements.
A National Mentoring Scheme is being developed by the Looked After Children Strategic Implementation Group (LACSIG), led by Professor Susan Elsley, to provide support and focus on the importance of stable relationships for looked after children and young people.

A number of the Children and Young People Bill’s measures will support looked after children at home, in terms of clarifying corporate parenting responsibilities; improving the quality of assessment and care planning (Named Person and Child’s Plan); and providing additional support to families who need it, to help prevent situations reaching crisis point (family counselling). We will develop Bill guidance specifically relating to children looked after at home.

**Issue 3: Cost of child care and protection**

We believe that calculating the total spend on protecting children and projecting the future balance of care are fundamental requirements, and we invite the Scottish Government to respond on how this could be achieved throughout Scotland, ensuring consistency across local authorities. (paragraph 48)

The Scottish Government shares the Committee’s view that a focus on integrated working and preventative spend requires better information about current spend and future demand. The Committee acknowledges the complexity of calculating the total sum of money spent on protecting children and the Scottish Government believes an understanding of spend and need is best determined at a local level by local authorities and their community planning partners. We believe that a strategic commissioning approach can support local authorities and partners to understand needs and current spending in their area and to consider the balance of services to most appropriately meet these needs and achieve the best outcomes for children and young people.

The Scottish Government worked with the previous LACSIG Commissioning Activity Hub to promote strategic commissioning and has funded the Regional Child Care Commissioning Initiative based at Renfrewshire Council. We are now considering how best to build on the learning we have from this work to further support local authorities who wish to undertake strategic commissioning. While any support would be offered to partnerships on a voluntary basis, we believe that providing support and access to suitable tools will help to encourage a level of consistency in approach and allow learning to be shared with other areas.

**Issue 4: The balance between parents’ and children’s rights**

We are reassured by steps being taken by Children’s Hearings Scotland but nevertheless believe that risks remain in this area. We therefore invite the Scottish Government to advise whether it considers that the current balance of rights is appropriate. (paragraph 55)
The Scottish Government believes that there is an appropriate balance of rights in children’s hearings at present. The key principle of children’s hearings is that all decisions are made in the best interests of children. There has been an increasing awareness of the rights of all participants in children’s hearings in recent years and that has included the rights of parents. Given the significant issues at play and the potential implications of the decisions taken by a hearing, ultimately the possible removal of a child from his or her parents, it has to be right that parents are given the chance to have their say at hearings. Some will need legal representation in order to participate effectively in hearings and the system supports that. While seeking all of that input at hearings, the driving force, the paramount consideration of the hearing in reaching its decision is the best interests of the child.

We welcome the development of a code of conduct for legal aid-funded solicitors at Hearings and believe that there is a case for requiring a similar code for privately funded solicitors at Hearings. (paragraph 57)

The Code of Practice for legal-aid funded solicitors at hearings makes clear the focus on the child at children’s hearings and there is a very clear expectation that all such solicitors will comply with it. The Scottish Government does not collect information about the number of privately funded solicitors at hearings nor have we been made aware of any particular concerns about the way these solicitors operate at hearings. The Law Society of Scotland regulates the conduct of all enrolled solicitors through the Standards of Conduct Practice Rules, made under the Solicitors (Scotland) Act 1980. The Rules also include a firm of solicitors or an incorporated practice. The standards of conduct to be maintained are set out in the Rules. Failure to comply with these Rules may be treated as professional misconduct. The Rules do not discriminate regards the age of a client or the funding of a solicitor’s service.

Issue 5: Resource and capacity issues in respect of placements

We invite the Scottish Government to comment on whether efficiency savings have been identified that could be used to increase the availability of appropriate placements. We consider that the lack (of availability) of resources should not prevent children being taken into care in non-emergency situations, where that is necessary. (paragraph 69)

The Scottish Government believes that local authorities and their partners are best placed to identify the needs for placements and services in their areas and to ensure that they have the right mix of services and placements available to meet those needs. As outlined in relation to paragraph 48, the Scottish Government supports the use of strategic commissioning as a process that enables local authorities and partners to identify the needs in their areas and the appropriate services to meet those needs, allowing them to target funding appropriately and on best value for money principles to achieve the best outcomes for children and young people.

We recognise that there is scope to reduce the future costs of child protection and looked after children procedures. The Children and Young People Bill introduces a
number of early intervention and preventative spend measures which could potentially reduce such costs, while at the same time providing more appropriate support to children and families, including:

- The Named Person
- The kinship care order
- Family counselling

Full details of estimated costs and net avoided future costs are included in the Bill’s Financial Memorandum:


Issue 6: The role of foster carers and kinship carers

We draw the attention of the Scottish Government to the written evidence we have received in relation to the role of foster carers and invite it to consider these submissions in the review of foster care. (paragraph 73)

We thank the Committee for drawing our attention to the written evidence provided to the Inquiry on the role of foster carers and welcome the inclusion of that evidence in the considerations of the Foster Care Review. The Scottish Government will ensure that the report, with recommendations by Sandra Paterson, independent chair of the Foster Care Review, will be provided to the Committee once completed.

Issue 7: Measuring outcomes for looked after children

We invite the Scottish Government to state the extent to which outcomes for looked after children are improved following state intervention and how this is to be measured. (paragraph 80)

As the evidence to the Committee demonstrated, issues around outcomes are complex, not least because it is not possible to know what the outcomes would have been for a child in the absence of an intervention. Nevertheless the Scottish Government is committed to achieving the best possible outcomes for looked after children and recognises the importance of understanding and measuring those outcomes.

Nationally, the Scottish Government has collected individual level statistical data about looked after children since 2008-09, and since 2009-10 we have been able to report on educational outcomes (attendance, attainment, exclusions and positive destinations) for looked after children. While this does not allow us to state whether outcomes are improved as a result of intervention, over time the collection of individual level data will offer us a better picture of the pathways through care of looked after children and allow us to carry out more detailed analysis of outcomes.
In a related area, child protection statistics have also moved to individual level data, and the Scottish Government is exploring whether it would be possible to collect the Scottish Candidate Number for these children, which could potentially allow some comparison of educational outcomes for those on the Child Protection Register and those who are formally looked after by the local authority.

In addition, the Scottish Government is currently looking at the possibility of linking looked after children data to health data to explore health outcomes.

The Care Inspectorate is also playing an important role in looking at the quality of outcomes achieved for children and young people. It has developed a set of Quality Indicators for use by Community Planning Partners to assist them in evaluating the effectiveness of their joint work to improve outcomes for children, young people and families and these indicators are being used as part of the joint inspection process. The Care Inspectorate is also committed to undertaking a programme of revision of inspection methodology for all types of care service, with an aim of being able to report more specifically and clearly on the outcomes achieved for people who use services and the differences those services are making for individuals’ lives.

More widely the Children and Young People Bill places a duty on local authorities and health boards to report on outcomes for children and young people with a requirement for other service providers to participate in this reporting process. We would expect this to be a positive driver for the development of further information about outcomes for looked after children.