Report to Education and Skills Committee
Children and Young People Commissioner Scotland

Legacy Report May 2017

Purpose of report
The purpose of this report is to provide an update on the work of the Children and Young People Commissioner on matters which will continue beyond the tenure of the current Commissioner and into the tenure of the new Commissioner, Bruce Adamson.

Overarching Issues

Brexit
Political and policy upheaval is anticipated as a result of Brexit. Without doubt, this will add to the complexity of governing Scotland as we channel our energies into mitigating the potential impact it will have on children and young people. There are many protections to children provided through EU membership and these must remain. There is an opportunity to enshrine them in UK and Scots Law but there is also a threat that some may be lost – this would greatly damage progress already made through EU directives and must be guarded against. This will inevitably form part of the future work programme of the office.

Child poverty
Scotland still has almost one in four children affected by poor living standards; the same figure as at the start of my tenure. It is a shocking indictment of our tolerance to inequality in our society and the single most corrosive impact on children’s enjoyment of their rights. As long as we have children living in poverty, Scotland’s worthy ambitions in terms of early years development, educational achievement and life chances for our children will be thwarted. It remains to be seen whether the good intentions of either the Child Poverty Bill or the Social Security transfers will translate into improvements on the scale required, or if we will need to continue to spend disproportionate resources combatting the effects of poverty on our children.

Strategic Approach

Committee on the Rights of the Child: Concluding observations report of the UK, 2016
The UN Committee published the Concluding Observations report on the UK in July 2016. This is the most significant document regarding the performance of the UK states parties in the performance of their duties in respect of children’s rights. As such, the Concluding Observations will form a key part of the work of the Commissioner’s office in the coming years, ensuring that government and public bodies are held to account in responding to them. The Scottish Government has already held a meeting of senior civil servants and representatives from civic society to consider its response to the
Committee report and it is expected that there will be joint activity to ensure the better realisation of children’s rights in Scotland.

**Strategic Plan 2016-20**
The most recent Strategic Plan of the office is for the period 2016 to 2020 and spans the outgoing and incoming Commissioners terms of office. The main elements of the plan are five Strategic Aims and six Themes.

**Strategic Aims**

1. To maximise the impact of the United Nations Convention on the Rights of the Child (UNCRC) and other relevant international rights instruments in Scotland
2. To influence and promote the effective and sustainable involvement and widespread participation of children and young people in Scotland’s society
3. To promote and safeguard the rights of children and young people, particularly the rights of vulnerable groups, through policy scrutiny and by supporting good practice
4. To provide a complaints and investigation service on the basis of the rights, interests and views of children and young people
5. To ensure that the office of the Commissioner is efficient, effective and fit for purpose

The Strategic Plan has six themes of work which consist of: Child poverty; Children safe from harm; Discrimination; Juvenile justice; Mental health; and Care experienced children and young people. It is worth noting that the Commissioner is now a Corporate Parent and will have an action plan to ensure the duties under the legislation are fulfilled.

All of the current and future work of the office is covered by these Strategic Aims and Themes.

**Specific areas of work**

**New powers of the office**
The Commissioner will have additional powers of investigation. The office will shortly appoint a new Head of Advice and Investigation to lead the introduction of new powers to carry out individual investigations. This will augment the existing general power to investigate matters concerning groups of children or children and young people. It is anticipated that the new power will be in operable by autumn 2017 and will be reviewed by the SPCB after an 18 month period.

**Named Person**
The Scottish Government has announced that it will introduce new legislation to take account of the Supreme Court ruling on Named Person. It is expected the Bill will be introduced before the summer recess and will progress through the Scottish Parliament in the autumn session of 2017. The government is committed to the continuance of Named Person and it is expected that the Bill will provide for greater discretion on the sharing of information, although it will still be a platform for contested issues to be
debated once more. It is expected that the office will play a part in the passage of the new Bill.

Stop and Search
Police Scotland has issued new guidance on Stop and Search which heralds the cessation of ‘consensual’ Stop and Search in May 2017. This is a significant positive development and the figures for Stop and Search reflect the drastic change of practice (especially in relation to young people) on the part of Police Scotland. The office is involved in ongoing work supporting the embedding of new police practices.

Minimum age of criminal responsibility
The Scottish Government has already consulted on the proposal to raise the age of criminal responsibility from age 8 years to age 12 years and it is expected that suitable legislation will be debated in the Scottish Parliament to give effect to this positive change. The office has been closely involved with this work and it is expected this will continue to through the process of parliamentary scrutiny and hopefully, implementation.

Evidence and Procedure Review
The Scottish Court Service continues to progress matters to reform court processes. This is a very wide ranging reform programme and part of it is a consideration of the treatment of children in court. It is through this framework that Scotland will consider how to implement new models of practice, including Barnheus pilots. The office will continue to be involved in the evidence and procedure review and any relevant work that develops.

Trafficking, Asylum and Migrant children
The office continues to be involved in Scotland-wide discussions regarding trafficking, asylum and migrant children. Trafficking is driven through a Ministerial Group of which the Commissioner is a member and the issue of Asylum Seeking and Migrant children has prompted the involvement of both the Cabinet Secretary and the First Minister. It is expected that these issues will continue to be part of ongoing work of the office.

Child Protection Improvement Programme
The Scottish Government has published the findings of a review of child protection systems in Scotland. The review was extensive and there are a number of actions for follow up. One of the recommendations was that the Commissioner should be invited to work with partners to develop a programme of work to understand children’s experiences of formal child protection systems in Scotland. It is expected that this will form part of the work of the office in 2017 and beyond.

Equal Protection
There has been continued lobbying activity around the issue of equal protection for children, including the Commissioner’s office. The Scottish Government has repeatedly stated it has no plans for legislation although the Minister for Early Years and Childcare has recently stated that he will consider carefully the proposals for change. On 12th
May, John Finnie MSP for the Green Party launched a consultation on this matter. Hopefully there will be a Bill debated in autumn/winter 2017 and the office will be involved along with other partner agencies.

**Educational Attainment and participation**
The office has previously produced a number of reports on educational attainment, the most recent highlighting the impact of participation in schools and a link with educational attainment. The office is in the process of promoting this research among local authorities in Scotland as they implement strategies to close the attainment gap. The office is also involved in promoting participatory education practices and it is expected that education and participation will continue to form part of the continuing work of the office.

**Additional Support for Learning (ASL)**
The issue of the implementation of legislation in respect of children with additional needs is the single most frequent source of complaints to the office and it is involved in this issue on a demand-led basis. In early 2017, the Education and Skills Committee launched its own enquiry into the issue and the Commissioner has held a Roundtable event on February 2017. The findings of this will be reported to the Committee and it is expected to form the basis of the continued involvement of the office on this issue.

**Young Carers**
The office published research on young carers. The research compared the mental health and well being of young carers with their peers. The research demonstrated that most young carers had good life satisfaction, but for those with most caring responsibilities we need to provide more support. It is expected that further involvement with this group will continue as appropriate to assist in the follow up.

**Domestic Abuse**
The office continues to work in partnership with Scottish Women’s Aid (SWA) progressing the case for the better treatment and outcomes for children caught in court ordered contact arrangements. It has been agreed that this work will be incorporated into the Scottish Government programme to reduce violence against women and girls called Equally Safe and the Commissioner is represented on the Ministerial Group. The office is also involved in the young people’s participation partnership linked to Equally Safe and this work will also continue.

**Youth Football**
The Scottish Parliament continues to consider the petition on ‘Improving Youth Football’ which is now the longest running open petition being considered by the Public Petitions Committee. It has generated a lot of media interest and is very topical, with the reports of historic sexual abuse prompting a separate enquiry set up by the SFA. It is expected that the issues will continue for a considerable time because the intransigence of the football authorities. The office will continue to be involved in this matter.
Baby Blether
In April 2017 the office launched ‘Baby Blether’, the last in the series of ‘blethers’ with children and young people, following in the footsteps of ‘A Right blether’ and ‘A Right wee blether’. Baby Blether is inviting parents and carers to see the world through the eyes of their baby and to send images to the Commissioner’s website. Baby Blether is open for entries until June 2017 and there will be display of images posted soon after.

Year of Young People, 2018
Planning is well underway for the Scottish Government declaration of 2018 to be the Year of Young People (8-25 years). It will provide a platform for various activities and actions progressing rights and commitments on the part of government, including the involvement of the office.

Final Comment
The work of the Commissioner is mainly driven through the collective efforts of the staff team who are credited with the progress made so far in respect of children’s rights. The new Commissioner will share the same privilege as I have in having an immensely knowledgeable team. I am sure they will continue to promote and safeguard children’s rights with the same tenacious commitment which excellently serves the children and young people in Scotland.

Tam Baillie
Children & Young People's Commissioner Scotland