

# Youth Justice Improvement Board

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## Note of the Meeting

8 September 2020 10:30 – 12:30

Attendees: Bill Scott-Watson (Chair) (BSW)  
Jenny Ward, SG (Minutes) (JW)  
Liz Murdoch, SG (LM)  
Tom McNamara SG (TM)  
Lauren Sorrell SG (LS)  
Ellen Birt, SG (EB)  
Fiona McFarlane, The Promise Team, Independent Care Review (FM)  
David Doris, SG Community Justice (DD)  
Colin Convery, Police Scotland (CC)  
Neil Hunter, SCRA (NH)  
Alistair Hogg, SCRA (AH)  
Lynsey Smith, Includem (LS)  
Tracey McFall, Partners in Advocacy (TrM)  
Janine McCullough, Education Scotland (JM)  
Rod Finan, SG OCSWA/GIRFEC (RF)  
Elliot Jackson, Children's Hearings Scotland (EJ)  
Paul Carberry, Action for Children (PC)  
Anthony McGeehan, COPFS (AM)  
Fiona Dyer, CYCJ (FD)  
Bill Fitzpatrick, Community Justice Scotland (BF)  
Matthew Sweeney, COSLA (MS)  
Grace Fletcher, NYJAG (GF)  
Martin Dorchester, Includem (MD)  
Gill Robinson, SPS (GR)

Apologies: Ranald McTaggart, NYJAG  
Davie Duncan, Police Scotland  
Eddie Follan, COSLA  
Cat Dalrymple, SG Community Justice  
John Trainer, Social Work Scotland  
Ross McLaughlin, SOLACE  
Brenda Stewart, HMP YOI Polmont

### 1. Welcome and Introduction

**1.1 Bill** welcomed attendees to September's YJIB meeting, in particular **Ellen Birt**, UNCRC Bill Team Leader, and **Fiona McFarlane**, Head of Governance and Strategy in the Promise Team at the Care Review. Ellen and Fiona were joining the discussion around the Promise and UNCRC, which were not fully explored at July's meeting.

## **2. Minutes of the July meeting**

**2.1 Bill** invited the group to agree the minutes of July meeting. No comments/amendments had been received in advance of the meeting. The minutes were agreed.

**2.2** There was only one action from the July meeting (to circulate Neil Hunter's update on Children's Hearings) – this update paper was included with the papers for the meeting.

## **3. Independent Care Review**

**3.1 Bill** welcomed **Fiona McFarlane** from the Promise team, who provided a brief update on progress and future plans around The Promise.

### **3.2 Update**

The Care Review concluded in February 2020. There were subsequent plans in place in March for an events programme to start planning and implementation. Due to circumstances relating to COVID-19, this did not go ahead.

A small team of 5 is currently being housed at the Scottish Government until March 2021, when a new location will be found. Fiona Duncan, former Chair of the Care Review, will act as Chair of the oversight board for the Promise. Scott Bell has been appointed as the Deputy Director from SG. FM stressed that the Promise team will be the driver for change, but does not have statutory function for implementing change. The oversight board has a ten-year timeframe; it is currently recruiting and hopes to publish an implementation plan in November 2020 which will set out priorities and how these will be achieved.

Anticipation of a change in landscape in relation to youth justice, criminal responsibility, experience of young people in the youth justice system, implications for family support. The initial strategy will need to be around what the new system will look like, colleagues will need to plan extensively for this new landscape which will be a collective effort. Promise Team colleagues are currently looking to identify the best space to have those conversations, and who needs to be around the table for those discussions. It was agreed that it would be good to consider collaborative governance arrangements, and to examine how the Care Review can help to develop the future Vision and Action Plan.

### **3.3 Discussion**

It was agreed there is a need for rigorous planning in terms of capacity and programming around how we respond to the Promise, as well as a need for an early discussion around governance. We also need time to explore and unpack what we are trying to achieve, and the scale of each task. It was noted that the Promise work ties in with some of the previous work around STOP:GO. This work was paused but will be included in the planning and implementation phase.

Mapping work is required around groups already existing, for example the group looking at 16 and 17 year olds in the hearings system as led by NH. How the Promise fits with other governance groups across the sector also needs to be looked at. There is already work underway which is consistent with the Promise,

key is to build on existing structures, identify gaps and build on these existing gaps. The Youth Justice Vision and Action Plan will also be an opportunity to tie this work together.

Issues around alternatives for community based support were discussed. Youth crime has gone down, but if there was a spike in youth offending, we don't have the resources/skills to address this. With regard to GDPR and information sharing, there appears to be a lack of consistency, especially from the police, and we need to be better at addressing the blockages around this. Organised crime is also on the increase.

The question was asked around resources to deliver of the asks of the Promise. Funding principles are currently being worked out and the Deputy First Minister has linked the funding available to family support, with a possible refocus on early intervention and prevention. Whilst we are taking more young people out of the formal youth justice system, this puts pressure on resources for local authorities, third sector and the social work system need to be adequately resourced to support these young people and their families.

There is a need for positive messaging and a continued momentum around this messaging. This is high on the agenda is a priority, colleagues in the Promise Team are conscious of the lack of communication at the moment, and the need to increase this. The 10-year implementation plan means that the momentum around comms must be maintained. A secondee has been brought in as Head of Comms and Engagement to the Promise Team. Some of the learning from work around stigma has been valuable and of interest; in this instance it was felt that a national campaign didn't necessarily work and could perpetuate rather than lance the issue around stigma. This is a responsibility for all partners and not just the Promise Team.

The need to narrow the pathway in to the justice system was discussed. Resourcing and implementation needs to start with statutory services looking at reducing the chances of a young person entering the justice system.

Support for families and fewer children and young people into formal systems is crucial. The responsibility of the Promise is to develop a coherent plan and create collaborative spaces and clear objectives. Delivery is for local authorities, Police and other partners.

SPS are currently revisiting their strategy for young people in Polmont, looking in particular at the population of 16/17 year olds in the justice system and taking account of future changes which would mean a reduction or no 16/17 year olds in Polmont. It is important to examine the profiles of this group of young people in order to consider what provision would be required.

Although the workforce supports the promise there are concerns around workforce and the pressure on practitioners. It was acknowledged that the workforce must be supported.

The impact of the Promise on care-experienced people over the age of 18 was raised, in particular with regards to the sentencing guidelines consultation. There

is a need to co-ordinate and map across government all of the other relevant areas of work, such as consultations, which are taking place.

The Promise reflects many social work values. It was noted that good links have been made to SWS

#### **4. UNCRC**

**4.1 Bill** introduced **Ellen Birt**, the UNCRC Bill Team Leader. Ellen provided an overview of progress of the current Bill.

#### **4.2 Update**

The Bill to incorporate the UNCRC into Scots law was introduced to parliament on Tuesday 1 September 2020. There is now a requirement that public authorities in Scotland do not act incompatibly with children's rights.

Although the ambition is to incorporate the UNCRC and U.N. protocols 1 and 2 to the fullest extent, there are some elements of the UNCRC which cannot be incorporated because they relate to reserved matters.

Despite this, all public authorities should be working to advance children's rights, and a rights-based approach should be interwoven into the work of all organisations: children's rights should not be regarded as an 'add-on'. Further, although the incorporation of the UNCRC will make government bodies accountable, activity around children's rights is not new, and many organisations have been working hard to implement children's rights for a long time.

Following the introduction of the Bill to Parliament, children and their representatives can bring forward challenges in court if public authorities are considered to be acting incompatibly. Courts can potentially award damages.

The Scottish Government would be required to report on any action that would need to be taken. The Bill also includes a power for remedial provision.

There are mechanisms in place which build upon the Children and Young People 2014 Act (CYPA). Colleagues have also considered good practice elsewhere in the UK, such as Wales. There will be requirements on Ministers to put in place and publish Children's Rights and Wellbeing Impact Assessments (CRWIAs) in relation to new legislation. To ensure transparency and accountability, the Scottish Government will report annually to Parliament. Some organisations on the Youth Justice Improvement Board are already required to report under the CYPA. The Bill repeals part 1 of the CYPA and replaces it with a compatibility duty under the Bill; the same organisations reporting on a 3-year basis will continue to do so.

A formal consultation has already taken place. Bill Team colleagues had planned to undertake a programme of engagement events back in March; this will need to be revisited. A Parliament call for evidence was launched on Monday 7 September, to run until 16 October. Ellen and the Bill Team encourage everyone to get involved, and are very keen to gather feedback on the Bill and its provisions – whether, for example, they should go further or be amended.

### **4.3 Discussion**

A number of members advised that they would value a separate conversation with the Bill team about implementation. There are some concerns about implementation on the ground and possible overwhelming of the workforce. There is a need to ensure that implementation is streamlined where it runs the risk of becoming fragmented, thus organisations need to work collaboratively from the start. FM asked when the duties will take effect, and whether there would be a sunrise clause.

Ministers have not yet committed to an implementation date, but are keen that duties take effect as soon as possible. Parliament will expect a clear timetable for commencement, and we can expect a debate around commencement shortly. Ministers decided against a sunrise clause due to previous discussions around implementing children's rights.

The Scottish Prison Service is starting to look at implications of incorporating UNCRC, in relation to two key areas: children in custody and the children of prisoners. SPS are currently examining every aspect and carrying out an audit to see what action might need to be taken. SPS is conscious that there are some actions they wish to take but cannot, for example action relating to data sharing. The question was asked around how impediment around implementation of UNCRC could be resolved. It was noted that any barriers would need to be considered through the relevant Scottish Government policy team. Examples of good practice would be helpful.

**Action:** SG to share contact details for Ellen with members.

## **5. 16 and 17 year olds in the hearings system – Cross System Planning Group**

**5.1 Neil Hunter** provided a brief update on the Cross System Planning Group advising that the group was set up last year to consider the implications around all 16 and 17 year olds in the Children's Hearings System, including planning ahead and putting in place short, medium and long term arrangements to meet the changing challenges and opportunities across the CHS and the Criminal Justice system.

The group is centred around 2 key workstreams:

- 1) victims and how this work aligns with the need to retain the integrity of the welfare-based approach in the Children's Hearings System, and
- 2) workforce capacity, development and interventions.

The group has met 4 times since November 2019 and is due to meet again in October. The last meeting was on 14 August, where the group considered a paper from CYCJ around some of the practice implications, and a report from COPFS around numbers of young people involved in offending and their profiles. October's meeting will consider the detail and narrative around young people on remand or in custody in Polmont. There will also be a detailed discussion about the situation in Scotland for workforce development, skills and competencies.

The group has recently undertaken a comprehensive review of its work plan. The work plan comprises timelines, key areas of activity and who is going to lead on these. By next year, the group expects to provide a paper summarising what is required in terms of capacity/resources, workforce and skills, and will offer its recommendations around work needed to ensure processes and practices are up to standard.

The group has also identified one area which requires further discussion, that of 16/17 year olds coming through the adult protection route and the subsequent care and protection issues which arise. There appears to be a gap in understanding of these issues.

This work will be discussed at the next YJIB meeting.

## **6. AOB**

### **6.1 Impact of COVID-19 on Young People**

**Liz Murdoch** highlighted that a paper will be circulated with the note of this meeting. The paper is from Claire Lightowler on the impact of COVID-19 on young people in secure care and in conflict with the law.

This follows on from the discussion at the last meeting and is based on the CRWIA which was commissioned by the Children's Commissioner (the CRWIA can be viewed here): <https://cypcs.org.uk/wp-content/uploads/2020/07/CRIA-appendix-conflict-law.pdf>.

Members were asked to feed back any comments to Liz.

## **7. Date of next meeting**

The next meeting will be **10 December**.