



**Inquiry into decision-
making on whether
children should be taken
into care – Call for Written
Evidence from the Scottish
Parliament Education and
Culture Committee**

**The UNISON Scotland Submission to the call for evidence from the Scottish Parliament's
Education and Culture Committee**

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Introduction

UNISON is Scotland's largest trade union representing approximately 160,000 members working in the public sector. UNISON Scotland represents over 30,000 workers employed in social care throughout Scotland and who work for the Scottish Children's Reporters Administration. UNISON welcomes the opportunity to respond to the Call for Evidence on whether children should be taken into care.

Key questions

1. Are decisions made on the basis of a clear, fully developed and agreed evidence base that demonstrates what is most effective for children and their families? Do all those involved in the decision-making process share common standards of training, knowledge and practice?

There are usually fora prior to admission to care which should ensure a full and shared assessment e.g. Child Protection Conferences, Resourcing and Assessment Fora; or Integrated Assessment Fora. It is difficult to say how consistent each is in terms of decision making as other agencies, including the Children's Hearing System, often have the last say and inconsistency can creep in.

We believe that this may vary considerably across authorities: some will have systems whereby specific criteria have to be filled; others will rely on joint decisions between practice team staff and resource team staff etc. Thresholds may vary across authorities in terms of trigger points and this possibility is evidenced by the increase in referrals and children becoming looked after immediately after publicity about children having been harmed or inquiries. It would be helpful to examine whether there is an overall difference in thresholds between authorities who have had recent inquiries and those that have not.

Within particular authorities, there will be a level of common standards in training, knowledge and practice but this is not the case across agencies, especially with child protection; agencies like health and police along with social work will contribute to the decision-making process. Understanding of the legal and human rights context, thresholds, the concept of ongoing therapeutic work and knowledge from research of what works best varies enormously between these agencies. It is our members' experience that the social work decision making process necessarily takes into account not only the here and now, but also the future of the child and family – whereas the views of other agencies are often focussed primarily on the here and now because they do not tend to hold ongoing responsibility after the initial child protection event.

The issue of parental contact is critical in most circumstances where a child becomes looked after and accommodated and this presents staff with some of the most difficult challenges in turning what is known from research into a reality. The contact may be an essential part of the plan to change parenting behaviour and secure an early return home. Where that planning is not appropriate, it may be about maintaining identity or it may serve several purposes across a spectrum. It is rare that adequate resources are available to manage contact at realistic levels and in child-friendly environments appropriate to the purpose of that contact.

The issue of contact is often a confused issue in terms of court and Children's Hearing decisions where our members regularly report that they believe these decisions are often taken with first regard to the rights of parents as opposed to the paramountcy of the welfare of the child. Legal fora often seem to struggle with the concept that children, as well as adults, have human rights.

In terms of emergency protection of children, we are aware that there is a wide variation in the use of Child Protection Orders throughout Scotland. However, we understand that SCRA figures

show that the vast majority that are taken are confirmed as necessary and most led to children being placed away from home.

We are aware of the principle that orders should only be made if it is better than making no order at all and we support our members who seek to work with families on a voluntary basis and in partnership.

However we are concerned that the variation may mask either explicit or implicit policy issues in terms of the blanket use of s25 of the Children (Scotland) Act 1995, i.e. 'voluntary' arrangements to accommodate children, in agreement with parents. Some members have raised concerns that an agreement with parents under s25 underpinned by an explicit statement that a CPO will be sought if agreement is not given, is not informed and freely given consent and is not adequate protection for a child.

This raises a number of concerns. One is that there is no independent scrutiny of the decision. Parents may not fully understand their rights and they do not have the ability to seek legal recourse with s25 as they do with a CPO. Another is that the child is not safely secured and protected, in that the parents can legally demand the child's return 'at any time'. This can leave the child vulnerable as well as carers or family members who are looking after the child. The wording of the legislation suggests that the local authority could refuse to return the child if it did not consider the parent 'able' to care for him/her but we are not aware of this being practised widely and in any case there is no forum for the parent to challenge this.

2. Is there consistency in decision-making across the country? To what extent are decisions on whether to remove children influenced by resource constraints or any other barriers?

It was difficult to answer this question because of problems in obtaining information from all authorities, and we think it would be helpful for research to be carried out to look at this question as we believe that decision making does vary from area to area and does depend on a number of factors. These include thresholds; resources (both to support children at home and to place them in care) and practice cultures. There used to be more opportunity for social work and other staff from different local authorities to come together at conferences/training events etc to share practice and to learn from each other. However, resource constraints have meant that external training is no longer available to most social work staff as local training is cheaper to run.

The available figures tell us very little in their current form. A higher proportion of children looked after at home as compared to those looked after away from home can mean that authorities are avoiding the need to accommodate children. However, a lower proportion of children looked after at home could also reflect an authority's success in early intervention. Deeper analysis of the figures is needed to come up with any reliable conclusions.

The figures also need to be seen alongside key factors leading to children becoming accommodated, e.g. the level of chaotic drug/alcohol use in the area, the availability of extended family supports and, crucially, the level and availability of adult services to assist parents in dealing with substance abuse, mental health issues etc.

An examination of the relative availability of fostering and residential services across authorities may assist in understanding any resource barriers. In 2004, staff in at least one authority raised a collective grievance in which they claimed such resources were under so much pressure that staff started from the assumption that there would be no place to put a child if she/he was accommodated.

One of the critical, and often unforeseen, effects of the GIRFEC approach and more focus on early intervention is that higher threshold problems are identified at an earlier stage and children who might have gone under the radar are being accommodated. As such the expected outcome of less children becoming accommodated is not being realised and there is a real possibility of a considerable increase at least in the short term.

Another factor with the potential to lead to more children becoming accommodated is where staffing at practice team level has improved to the extent that staff can make early thorough assessments, again identifying children who may otherwise have gone under the radar. A comparison between authorities of this kind of data may be helpful.

Society's expectations and thresholds regarding chronic neglect have changed significantly in recent years and some of our members report that this has led to children being accommodated (correctly) who might previously not have been. Anecdotally, it appears that courts and hearings are more willing to take action in terms of evidence of neglect but difficulty remains in evidencing and convincing systems of the presence of – and the extremely damaging effects – of emotional abuse.

One of the major barriers to best practice and positive outcomes is the inability in most circumstances to have a positive choice of placement to best match the child's needs. All too often children are accommodated in the only resource available at the time, whether that is a foster carer or a unit. In 1999, the Edinburgh Inquiry recommended that residential units should operate consistently below capacity so that there could be a genuine choice of placement for a child. We are not aware of this ever being enacted in any local authority.

3. Can general assumptions ever be made about fitness to parent or must each situation be fully assessed on its individual circumstances? Are there any particular parental risk factors, for example drug or alcohol misuse, that would create a presumption that a child should be removed? To what extent are there differences of opinion among relevant bodies about what constitutes fitness to parent, for example, in relation to parental neglect?

Every situation is different and needs to be assessed on individual circumstances. However assessments should be evidence based and underpinned by what we know from research. We know more now about such issues as parental neglect and the adverse impact that long term neglect can have on children, but there are still differences in thresholds for action across relevant bodies and, we suspect, different local authorities. This is another area that would benefit from further research.

The primary assessment needs to be a parent's ability to put their child's interests first. We know from research and experience that this ability is severely affected by substance abuse issues. However, there are parents who can prioritise their children when they have an addiction under control and appropriate supports to maintain their progress. As such, each case needs to be assessed individually.

Judgements need to be taken on the effects on the child and the potential for stability and improvement. There tend to be widely varying views between social work and other agencies on this issue and this is largely related to the focus on agencies working with the adult and judgements as to whether they are 'deserving' or not within that agency's frame of reference.

Another major issue is one of defensive practice where staff seek to take the safest action possible at the time (irrespective of the consequences for the child) for fear that they will face action against them if things go wrong. There needs to be a greater understanding of the nature of risk and the fact that it can only ever be managed and never be totally avoided.

A hugely neglected area is where a parent or parents have mental health problems. There appear to be few effective supports for parents in this situation and there is also a concern in some situations where medical professionals' focus is (somewhat understandably) on their patient's needs rather than the needs of their child.

4. What evidence is available to demonstrate that children who are removed from the family home, whether temporarily or permanently, enjoy better outcomes than they otherwise would have had?

There is growing evidence that children looked after away from home do better in education than those looked after at home, but there are still concerns that compared with the non looked after population, children who have been looked after do less well in adult life and are over-represented in the unemployment statistics; the prison population etc. However, it is not clear whether that comes as a result of children being looked after or relates to their experiences before coming into care and this too would benefit from greater research.

It is dangerous to rely on educational outcomes as the only measure of whether accommodated children do better than they might have done if they had not been accommodated. Berridge (2007) notes "The socio-economic risk factors that are linked with family breakdown and admission to care also predict low educational achievement, such as social class and poverty. Social mobility and transition to adulthood are increasingly problematic in England, making it difficult for care leavers to improve their social position. Parental maltreatment is strongly linked with educational failure. Other countries may do no better than England does. Thus, it is by no means obvious that the care system necessarily jeopardizes looked-after children's education."

Outcomes relating to personal satisfaction, emotional intelligence, stable relationships etc are very difficult to research and evidence, but these are the key indicators of good outcomes and more research is needed on these. Children tend to be accommodated for negative rather than positive reasons i.e. they are accommodated after harm has occurred or to prevent reasonably predictable harm and very often as a last resort. As such, the fact that the child does not suffer continuing harm would tend to be evidence that the outcome was better than remaining at home.

It is possible that the increased use of kinship care will have a significant effect on the indicators mentioned above.

5. How are decisions made on whether a child, once removed from the family home, should be returned to that home, or removed permanently? Is the speed of decision making appropriate?

Our understanding is that this too differs from area to area, and although the statutory looked after review system should, in theory, ensure that plans are made timeously for looked after children this may not always happen. Some authorities benefit from having Looked After Review Managers who chair these reviews and hold a focus on good long term planning, together with specific social work teams who hold only "permanence" cases. This seems to improve the planning, especially for younger children who cannot return to the care of their parents and who need long-term care through adoption or other long-term means.

The systems for addressing planning and avoiding 'drift' vary across authorities. A range of systems will be involved in these decisions, e.g. Children's Hearings, LAAC reviews and Permanency Panels. As such there should be some level of consistency.

We are not aware of any research that has assessed whether those authorities with specialist Permanency or Looked After Children teams have improved planning, compared to authorities

that continue to 'mainstream' such work. There will always be the tension as to whether or not it is helpful to structure in a change of social worker for a child when their plan changes.

We believe that most authorities have some form of system for ensuring that planning decisions are made at appropriate times and without delay (e.g. independent LAAC review chairs responsible for chairing reviews but also with a quality assurance role). Clarity in children's plans, especially about expected timescales, is critical to this planning and to managing the inevitable risk inherent in returning children home as soon as possible. It is well known across a number of studies that being accommodated longer than six months is one of the factors associated with failed return home and this will generally inform practice. What is less clear is whether this always relates to the inability to effect changes at home within a timescale appropriate to the child, or whether drift is also an issue.

In terms of permanency, there appears to be some widely varying practice. Some authorities make far more use of POs and POAs to secure children's futures than others who appear to rely on the Children's Hearing system for maintaining children in long term care.

While there can be delays in progressing permanency plans through POs due to pressures on staff preparing complex reports, the major delays reported to us are related to the court systems. Courts almost routinely fail to meet the required timescales. Even if they do, cases can drag on through continuations due to parents delaying in getting legal representation, appeal processes, and at times cases continuing with little chance of being defended for very long periods before the parent or their legal representative withdraws.

There are cases where we have been advised that the process has taken three years. With courts apparently very reticent to use their powers to allow children to be moved to prospective permanent placements during this time, the effect on trying to ensure children's sense of security is very damaging.

6. Where a child has been returned to the family home, what type of support is most effective in ensuring that the child will enjoy greater stability and security?

This is difficult to say as every child and their family will have different needs. Once children return home there is a danger that services are removed too quickly, however, because support for children who are looked after and placed away from home is prioritised.

We believe there is a need for greater resources to be made available to ensure greater consistency across authorities and other agencies, including additional staffing levels, and set out below a list of areas where we feel these resources could help:

- There are insufficient resources in terms of social work and support staff; good foster and other care placements and support services for children at home. Social workers often carry caseloads which are too high and which do not allow them to build the necessary relationships to ensure constructive engagement with children and their families. They are constantly juggling to prioritise cases and often it is the children and their families with whom they are working preventatively who drop off the edge, without other supports being available.
- There is not enough research on how to get the best outcomes for children and young people who are looked after. More needs to be done to establish why children looked after at home do less well than those in care; and to look at cross authority differences in outcomes.
- Opportunities need to be re-established for sharing of good practice across authorities through training and conference type events. There is too great a focus on local training and a

danger that this can lead to “silo” thinking without any opportunity to learn from good practice elsewhere.

- More time and resources need to be invested. It has long been evidenced that a positive relationship between the social worker and children and their families is a key issue leading to better outcomes. Building such relationships takes time and is nigh on impossible with some of the reports of caseloads we hear from around Scotland.
- Universal services for adults that allow them to mobilise their caring abilities e.g. parenting support, drop in centres etc. Specific health services for maintaining abstinence and practical and professional support for parents with mental health issues.
- On a broader front, social policy that addresses poverty, housing issues and community regeneration.
- Universal services for children: effective support from schools able to provide enough flexibility to keep children and young people in mainstream education and helping to reduce stresses at home.
- Targeted services to support families either in the medium term or as a bridge to universal services. Child and family centres, outreach and skilled crisis support at evenings and weekends which is able to step in to avoid children having to be accommodated. All too often, the ‘nuclear option’ of accommodation is all that exists in a crisis.
- Outreach, network and ongoing support services for extended families and kinship carers to enable families to find their own solutions to providing safe and emotionally secure care for children and young people.
- Overall, accessibility of services and help when they need it: When families are in crisis or have longer term difficulties, they are often asked to do the very things that they are finding hard to do in the first place as a prerequisite for getting the help they need. For example; attending a range of meetings and appointments instead of these being brought together; little thought being given to the structure of meetings to make them people and child-friendly; having to attend distant resources (e.g. hospital mental health services for adults and children) with attendant transport costs; long waiting lists which sap motivation etc.