



National Guidance For Child Protection In Scotland

UNISON Scotland's response to Scottish Executive Consultation on National Guidance for Child Protection in Scotland

September 2010

Executive Summary

- UNISONScotland broadly welcomes the main thrust of the National Guidance and particular the emphasis on the shared role across agencies and functions for the protection of children.
- However, UNISON is clear that the significant resource pressures that already exist are likely to be very dramatically worsened in light of exceptional public spending cuts in the coming months and years.
- None of the improvements envisaged by the Guidance can or will be achieved without the resources needed to make them a reality.
- UNISON welcomes the emphasis on putting the child at the centre of these processes but it believes that there are areas, in the light of the experience of our members, where this could be more explicit.
- UNISON welcomes the helpful bringing together of elements of legislation, guidance and definitions into one document.
- UNISON also welcomes the sections on information sharing but our members continue to have concerns about how this is operated in practice.
- UNISON particularly welcomes the sections on Staff Supervision and Support, but is disappointed that the issue of Workload Management is not included, especially given the key role of unmanageable individual workloads exposed by some inquiries.
- UNISON is concerned about the 21 day timescale for initial child protection case conferences and considers that 28 days is a more realistic timescale

Introduction

UNISON is Scotland's largest trade union representing approximately 160,000 members working in the public sector. UNISON Scotland represents many thousands of workers involved with protection of children, employed in social work, health, education, etc throughout Scotland.

Response

UNISON Scotland broadly welcomes the main thrust of the National Guidance and particular the emphasis on the shared role across agencies and functions for the protection of children.

However, UNISON is clear that the significant resource pressures that already exist are likely to be very dramatically worsened in light of exceptional public spending cuts in the coming months and years. It is likely that these financial pressures will wipe out those improvements that have been made in some areas around Scotland. None of the improvements envisaged by the Guidance can or will be achieved without the resources needed to make them a reality. UNISON's concern is that, in that climate, what is designed to be a helpful document to improve practice and standards will merely be a set of standards to set up front-line staff to fail.

UNISON welcomes the emphasis on putting the child at the centre of these processes but it believes that there are areas, in the light of the experience of our members, where this could be more explicit. There are current concerns that the process of child protection investigations can sometimes overtake their purpose and that, rather than the child being at the centre, he/she takes second place to structures and agency convenience.

UNISON welcomes the helpful bringing together of elements of legislation, guidance and definitions into one document.

UNISON also welcomes the sections on information sharing but our members continue to have concerns about how this is operated in practice – both in terms of information not being shared where it clearly needs to be and in terms of ongoing unregulated sharing of personal information about children and families far below the threshold criteria outlined in the Guidance.

We believe that agencies must be aware of the reality that they may only hold a minor piece of information which, in itself may not raise serious concern - but that by speaking to colleagues in other agencies the whole may reveal significant concerns.

UNISON particularly welcomes the sections on Staff Supervision and Support. However we believe this could have been expanded further to incorporate the concept of 'shared decision making'. It is also disappointing that the issue of Workload Management is not included, especially given the key role of unmanageable individual workloads exposed by some inquiries. UNISON Scotland, in partnership with BASW Scotland has produced important guidance on both of these issues, which we would commend to the Scottish Government.

<http://www.unisonscotland.org.uk/socialwork/workloadmanagement.pdf>

UNISON is concerned about the 21 day timescale for initial child protection case conferences and considers that 28 days is a more realistic timescale. It believes that all of the standards regarding minutes and child protection plans can only be achieved if adequate administrative and business support is available.

UNISON has responded to the consultation questions below and has added specific comments about particular sections of the Guidance under Question 12 on additional comments.

General Questions

1. What are your views on the usefulness and accessibility of the guidance for your sector? Are the suggested processes and terminology used relevant to your service/agency/profession? How could they be improved?

No specific comment

2. The guidance seeks to strike a balance between acknowledging the *Getting it right for every child* approach as the future direction for children's services, and the current stage of its development and implementation across Scotland. What are your views on how GIRFEC has been incorporated into the document?

See response to 10 below

3. Are there any equality or diversity issues that should be more fully reflected in the guidance?

Cultural issues are recognised but we would like to see more discussion about thresholds. The biggest single equality issue is poverty and there needs to be an explicit understanding regarding cultural issues related to poverty.

Specific Questions

4. Part 1: Key Definitions and Concepts:

The guidance suggests that there should no longer be a requirement to identify a category of registration when registering a child on the Child Protection Register. This is to encourage a move towards a focus on the needs and risks to the individual child, rather than on categorisation.

a) Do you agree with this change in process?

In Part - Our concern would be that additional administrative arrangements would have to be put in place for gathering management information, leading to further pressures and form filling by front-line staff.

5. Part 3: Risk Assessment:

While the guidance discusses risk assessment and indicators of risk, it should be noted that the intention is to develop a separate risk assessment toolkit. The toolkit will be based on the general principles and framework set out within the guidance, and in particular link with the GIRFEC model. On this basis, are you content with the principles set out in the guidance around risk assessment?

In Part - We would be opposed to a rigid 'box ticking' risk assessment model or being prescriptive about a particular tool. By their nature, the circumstances in which child protection issues arise are complex and any assessment has to adjust to the circumstances the child is in. There is a need to recognise that many of the individual elements in risk assessment models will be subjective and possibly affected by differing cultural and organisational thresholds. As a result, while the assessment may be helpful, it should not necessarily be relied upon as infallible.

6. Part 3: Responding to Concerns about Children: The guidance states:

'There are a number of tasks and roles that specific agencies have a particular responsibility for – for example, the decision to undertake a child protection enquiry (police and social work), planning a joint investigation, including the need for a medical examination (police, social work and health), and co-ordination of child protection case conferences and the child protection plan (social work).' Do you agree with these roles and responsibilities?

Yes - Where joint decision-making is required, it needs to be in the form of a true discussion. The staff concerned need to have the authority of their agencies to arrive at decisions based on the facts of the case and not on instructions from other officers in one agency who are not directly involved in the discussion. This does not preclude scrutiny and review of such decisions.

7. Part 3: Child Protection Case Conferences and Appendix 1:

The guidance introduces national timescales, in particular that initial Child Protection Case Conferences should be held as soon as practically possible and no later than **21 calendar days** from the notification of concern. Also, it suggests that participants should receive the agreed child protection plan within **5 calendar days** of the conference; and the minutes no later than **15 calendar days** after the conference. Do you agree with these timescales? If not, what is the best standard that could be reasonably expected?

No - In all child protection cases there should be an initial inter-agency child protection plan in place from the point of referral. We should not be relying on waiting for a case conference before such a plan is in place. This is recognised by the suggested 21 day timescale. However it is unrealistic for participants to be able to furnish considered reports and assessments within a timescale that would need to see these reports completed within 14 days of the initial referral in order to be circulated. In most cases, the social worker preparing the report will also be directly involved in managing the initial child protection plan which, by its nature, will be most intensive in the days after the initial referral. This brings time pressures which would become all the more severe if they were to be expected to collate and merge all of the other agencies' reports into one document as is recommended in the guidance.

The best standard that could reasonably be expected is 28 days. The other standards are reasonable but we would stress that they

are entirely dependant on having the available resources to meet them, especially in terms of administrative and business support.

8. Part 3: Child Protection Case Conferences:

The guidance suggests that pre-birth case conferences, where they identify the need for the unborn child to have a child protection plan, should also place that child on the Child Protection Register. Do you agree with this approach? Is this approach already taken in your area? What benefits do you see from pre-birth registration? What disadvantages?

Yes

9. Part 3: Child Protection Case Conferences:

The guidance states that *'while the chair of case conferences will often be from social work services, where an individual could fulfil the required criteria, it would not be inappropriate for a practitioner from a different agency or service to undertake the role.'* The focus is therefore on the competency and impartiality of the chair, rather than their particular profession. Do you agree with this approach?

No, It is UNISON's view that competency and impartiality of the chair is essential but knowledge that comes from being a qualified social work professional is also essential. Both need to be criteria for chairs.

The consultation puts social work at the centre of preparing and operating child protection case conferences and child protection plans. In that lead role, it makes sense that the chair is a qualified social work professional. This is all the more important in light of the recommendation that the chair would take the decision to register if there was no consensus at the case conference.

10. Part 3: Child Protection Case Conferences:

The guidance states the desire to move towards a position where only one report is considered by a case conference. However, it also recognises that this is not something all areas are capable of implementing at this stage. However, are you content with the *principle* of having one composite report co-ordinated by the Lead Professional and representing the views of all services, agencies and families involved?

No - We have some concern about the over-emphasis on a single report, especially at the Initial Child Protection Case Conference

stage. Our members' experience is that ensuring that agencies other than social work provide reports for case conferences has been problematic. There is a risk that the onus will be placed on the social worker to seek out information from other agencies rather than the onus being on other agencies to provide it. This has been a recurring theme in inquiries. Some of that information will be specialist in nature and not within the professional remit of the social worker. UNISON's view is that reports from all agencies should be provided for the Initial Child Protection Case Conference and that the minute of that conference would provide the one integrated assessment.

11. Part 3: Child Protection Case Conferences:

The guidance suggests that 'all participants at a CPCC with significant involvement with the child/family have a responsibility to determine whether or not to place the child's name on the Child Protection Register. Where there is a split decision, the Chair will determine the final decision.' Do you agree with this approach?

Yes - It is UNISON's view that decisions on registration are best taken by consensus. Any child protection plan needs to be owned by the inter-agency team operating it. As such, where there is no consensus or no decision that is clearly shared by the majority of those present, it is better that the decision is taken by the chair and referred to the Child Protection Committee so that the decision and the plan has sufficient authority.

12. Do you have any additional comments?

Paragraphs 16 and 143: UNISON welcomes the emphasis on a joint responsibility across agencies for child protection and the specific measures agencies are required to put into place. While some of this currently exists, our members' experience is that agencies other than social work are often unclear about their role. This is often more evident in terms of the ongoing care and protection of children and in the 'corporate parenting' concept.

Paragraph 20: Given the pivotal role played by the SCRA and the Children's Hearing in Scotland's child protection system, we believe it would be appropriate for practitioners to also consider whether compulsory measures of supervision are necessary and therefore, that a referral to the Children's Reporter should be made.

Paragraph 23: We are unclear of the exact position the Guidance is taking in terms of a definition of a child as under 18. We require

clarification about whether this means that child protection guidance will apply to children aged 16-18 or whether it is merely noting that adult protection guidelines are appropriate in those cases.

Paragraph 25: The definition of 'parent': The paragraph omits to mention the status of parents of children born to same-sex relationships. The Human Fertilisation and Embryology (HFE) Act 2008 introduced changes which mean that as from 1st September 2009, it is possible for both female/male parent names to be included on the birth certificate. Therefore, if a child was conceived by donor insemination or fertility treatment on or after 6 April 2009, both women/men in a same sex relationship - regardless of whether or not the biological mother/father - have parental rights and responsibilities. The HFE allows recognition of both partners in a same-sex relationship as legal parents of children conceived through use of donated sperm, eggs or embryos. Further, people in same sex relationships and unmarried couples are able to apply for an order allowing for them to be treated as the parents of a child born using a surrogate.

Paragraphs 27-29: This is a helpful bringing together of definitions of kinship care, private fostering and relatives which are currently spread across different pieces of legislation.

Paragraphs 44 and 293: A definition and acknowledgment of risk is helpful in terms of understanding that it can be managed or reduced but not necessarily eliminated. The acknowledgement that a level of risk is inherent in the development of all children is helpful.

Paragraphs 302 – 310: See response to Question 5 above

Paragraph 50: Given the multiplicity of duties incumbent upon the 'Lead Professional' it is very difficult to see how any other professional (other than a Social Worker) could undertake the role

Paragraph 54: De-registration. It would have been helpful to have a view as to whether de-registration is considered appropriate when a child is made subject to a compulsory supervision requirement and that process takes over the child's plan. This appears to be the practice in some authorities.

Paragraph 67: The term 'principal consideration' is used when referring to the welfare of the child. The Hearings System uses the phrase 'paramount consideration' when referring to a child's welfare.

For the sake of clarity it would be helpful if consistent terminology were employed.

Paragraphs 72 and 73: Professionals ensure children are listened to and respected: The checklist here is strongly welcomed. Our members report that children and their families not always fully accorded these rights in child protection investigations. In particular our members question whether all medical examinations are proportionate to the circumstances and whether children and families are always fully aware of their rights in police investigations.

Paragraphs 74 - 90 Sharing information: See Introduction. UNISON is concerned that the welcome progress in information sharing is endangered by some joint-agency and community safety initiatives where it seems that information is routinely shared far below the child protection or public safety thresholds. UNISON welcomes the charts in 86-90 as especially helpful, as are the sections on Retention of Records.

UNISON believes that further work is needed to ensure that information shared with other agencies for child protection purposes does not end up being used by those agencies for purposes that do not directly relate to child protection. This is an area where our members have expressed concern.

Paragraph 84: States that in general information will only be shared with 'the consent of the child (depending on age and maturity)'. However statutory agencies discharging their duties surely do not require this consent. For example where a referral is made to the Children's Reporter - or a social background submitted- it is surely not the case that consent should be sought prior to the referral or report being submitted. It is one thing to advise that information may or will be provided - but something quite different to require consent be sought. As stated above there requires to be greater clarity regarding information sharing.

Paragraphs 103-142: UNISON welcomes the bringing together in one place of key elements in a range of legislation impinging on child protection and believes this will be a useful aid for practitioners in all agencies.

Paragraphs 174 175: Involving children and young people and their families: UNISON welcomes these sections but believes that more effort needs to be put into finding ways to genuinely involve

young people in a way that allows them to fully express their views and the nature of their experiences. Examples of innovative ways of doing this across the country would be helpful.

Paragraph 214 Reporter: We welcome this reminder of the Reporter's dual test of evidence of grounds *and* that compulsory measures are needed. In such an emotive area as child protection, there is often a danger of over-reaction, unnecessary statutory intervention and over-bureaucratising intervention which removes the child from the centre of the process.

Paragraph 225: Leadership and staff development in child protection: UNISON welcomes the expectations of senior officials, especially in relation to training and staff development. We also welcome the expectations of a collaborative approach in Para 226.

Paragraph 234: Findings of Inspections: While UNISON supports the elements in this section like leadership, consultation and joint accountability, we remain concerned that our members sometimes experience inspections negatively and that there is a view that being good at getting positive inspection results is not always the same as delivering real quality services at the front-line.

Paragraph 236: Staff Supervision and Support: UNISON particularly welcomes the sections on Staff Supervision and Support. However we believe this could have been expanded further to incorporate the concept of 'shared decision making'. It is also disappointing that the issue of Workload Management is not included, especially given the key role of unmanageable individual workloads exposed by many inquiries. UNISON Scotland, in partnership with BASW Scotland has produced important guidance on both of these issues at <http://www.unison-scotland.org.uk/socialwork/workloadmanagement.pdf>, which we would commend to the Scottish Government.

Paragraph 258: Community planning and local links: A framework for local practitioner child protection links (not just at a strategic level) is important for joint working and understanding. Often this is frustrated by a lack of co-terminosity or unilateral organisational decisions by agencies.

Paragraph 272: Adult support and protection. UNISON agrees with the importance of close links between adult services, offender's services and children's services. It notes that these are sometimes frustrated by re-organisations, divisions of responsibilities and

differing management structures in different authorities. Local Authorities should be required to develop information sharing and systems for formal links in the context of any reorganisations, and especially in terms of any outsourcing.

Paragraph 326 etc: Sharing Concerns and Initial Information-gathering: This is an area where our social work members can be extremely vulnerable to unjustified criticism in hindsight when information not available to them or not perceived as relevant – or not communicated - at the time is later evaluated. There is a need to formally recognise the dynamic nature of this process and that, as information is gathered and analysed, assessment of risk may reduce as well as increase. It would be helpful for this to be recognised explicitly.

Paragraph 332: Joint decision-making: See answer to Question 6.

Paragraphs 338 and 339: Sharing Concerns and Initial Information-gathering – joint interviews: UNISON welcomes the definition of the purpose of joint investigations “is to establish the facts regarding a potential crime or offence against a child and to gather and share information to identify any risks to a child and the need for any protective action”.

However a recent court case has demonstrated the tensions in this process. It appears that the court sees the joint investigation and in particular the joint interview as purely a forensic process, with the element of identifying risks to a child that may not be able to be evidenced fully being excluded from the process.

Additional work is needed to clarify expectations and ensure that the joint interview can fulfil its purpose of avoiding multiple interviews of a child. As it currently stands its ability to do this must be in question.

Paragraphs 343-346: Involving Children and Families: UNISON supports the need for all children to have access to advocacy and support from someone independent of the process but with the knowledge, skills and training to understand the issues for the child and the processes they are going through. Many children's rights officers, especially those with a background in social work, would be ideally placed to provide this service if they had the time to do so.

This can be especially important for children with communication impairments, but all children who have experienced abuse and who

have been disempowered by this experience should have the opportunity for independent support throughout the child protection process. This would ensure that their rights are respected, including their rights to be safe and to have their welfare needs made paramount, but also their right to have a say, be listened to and be involved, depending on their age and stage of development, and bearing in mind that even quite young children can have a view.

Paragraphs 351-356: Involving Children and Families – medical assessments. UNISON would underline the need for these to be as child-friendly as possible and arranged with the needs of the child at the centre.

Paragraph 352: Comprehensive medical examination: While we welcome the fact that a judgement is to be made when and if such an assessment should take place, we would wish this to be monitored to avoid the risk of it becoming the norm.

Paragraphs 362 and 363: UNISON welcomes the sections on venue and timing of joint paediatric/forensic examination and the need for this to be fully discussed with police and social workers. We also welcome the measures to ensure the full involvement of children, parents or trusted adults. We also welcome the statement that “It may not be in the child's best interest to rush to an immediate examination whatever the time of day the disclosure has been made” and “It is expected that in the great majority of cases arising in working hours, a comprehensive medical and health assessment will be carried out locally and quickly by a doctor who knows the child and/or the family”.

Paragraph 368: Where the Crown prosecutes an alleged perpetrator of abuse or neglect we believe it would be useful if such cases were prioritised and expedited as urgently as possible.

Paragraph 369: UNISON is concerned about the approach of the court and legal processes to child witnesses. While there are many examples of good practice, it has to be acknowledged that the court process is unlikely ever to be a child-friendly process. A huge dilemma is recognised by the Guidance when it states “The local authority and other agencies need to consider a range of issues if the child needs counselling or therapy before criminal proceedings are concluded. The needs of the child take priority and counselling should not be withheld solely on the basis of a forthcoming

prosecution". This is not a view apparently shared by the courts in terms of recent decisions and Sheriff comments.

In light of current conviction rates, it is a concern that there is such a focus on the forensic part of the process with the risk that children are put through experiences and systems which lead to no better outcome for them, at the expense of therapeutic intervention when they need it.

Paragraph 407: Consideration must be given to inviting children and young people to CPCCs: UNISON welcomes the statements in this section about being sensitive primarily to the needs of an individual child, the need for preparation and the acknowledgement that there are other – and often better - ways of involving a child than having them attend a meeting.

It is essential that evidence of a child being involved and consulted is the primary consideration when looking at performance indicators, rather than set statements or an analysis of attendance rates.

While we welcome much of what is in the Guidance, further work is needed on how to manage and structure the role of the case conference as a protection forum where both professionals and families share views and information. Attendance in itself does not satisfy this.

Paragraph 414: UNISON welcomes the Guidance on appeal processes in terms of CPCCs

Paragraphs 453-463: Non-engaging Families: UNISON agrees that key safeguards and services should be maintained for children who are at risk of harm, irrespective of whether families or carers who are directly hostile are very challenging to practitioners. However, UNISON would strongly argue that it must be recognised that aggression and violence can be at such a level that it is not possible to safely work with a family in a way that will protect a child and the staff involved. In such cases, Hearings and Courts need to recognise the limits of social work's ability to protect and decisions may need to be taken – e.g. accommodating that child – even though this may not otherwise have been necessary.

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