

**RCSLT MEMBERS’ BRIEFING (March 2014)**

**THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014**

The RCSLT actively contributed to the development of the Children and Young People (Scotland) Act 2014 (henceforth the CYP Act) through submissions, lobbying MSPs and tabling amendments for debate in committee and the full parliament.

The passage of the bill represented a welcome and positive opportunity to progress outcomes for all children and young people (CYP) with speech, language and communication needs (SLCNs) in Scotland. The new law gives SLTs an opportunity to address and improve the communication capacities of all children and young people (CYP) and support parents with SLCNs of their own. This briefing summarises the content of the Act and highlights the opportunities for speech and language therapists (SLTs) within the new law.

**Background and summary:**

The Children and Young People (Scotland) Act became law on 27th March 2014. It contains several changes to the way in which Scotland’s children and young people are cared for. Not all these changes have started, but will come into effect over the course of the next few years. The Act is wide-ranging, covering many issues including:

* **Strengthening the rights of CYP,**
* **Creating new systems to support CYP i.e. Named Persons, Child’s Plans and Children’s Services Plans) ,**
* setting mandatory 600 hours free nursery place for every child;
* Creating duties around service planning for pre-school and after-school care
* **Strengthening corporate parenting role of public authorities for looked after children and extending that responsibility to young people up to age 26.**
* Support for kinship carers
* Children’s Hearings
* **Assessment of Wellbeing**

In many areas of the Act, it enshrines in law policy contained within Getting it Right for Every Child (GIRFEC).

This briefing, focus will be given to the parts of the Act that are most relevant to SLTs – highlighted in bold above.

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**The full Act and explanatory notes are available at;**

<http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf> or <http://www.legislation.gov.uk/asp/2014/8/contents/enacted>

1. **Children’s Rights and Scottish Commissioner for CYP:**
* The Act creates a requirement on Scottish Ministers to ‘keep under consideration’ how they might further the UN Convention on the Rights of the Child (UNCRC). It places new duties on public authorities such as Health Boards to report every three years on what they have done to improve the rights of CYP. The UNCRC includes;

*Article 12 (respect for the views of the child) - Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.*

To enjoy equal rights children need to be able to express themselves to the best of their ability.

*Article 13 (freedom of expression) - Every child must be free to say what they think and to seek and receive information of any kind as long as it is within the law.*

To enjoy equal rights children need to be able to understand information to the best of their ability.

Therefore to enjoy, as much as possible, their rights under the UN Convention on the Rights of the Child (UNCRC) every CYP needs to have the opportunity to develop the best possible SLC skills and, where this is an area of difficulty, society needs to recognise and adapt effectively to their individual speech, language and communication needs (SLCN).

* The Act strengthens the role of the Children’s Commissioner to investigate cases affecting CYP, which means that CYP, their parents or adults who support them will be able to ask the Commissioner to decide whether an individual’s rights have not been respected and in turn make recommendations for improvement. This part of the law has not yet started.

**What this could mean for SLTs:**

* The rights above provide a legal driver for public investment in SLC services – including SLT.
* SLTs can enable and support CYP to enjoy equal rights, for example, through development of inclusive communication practice.
* SLTs can enable public authorities to demonstrate (and report) active pursuit of UNCRC, for example, by improving SLC support and communication access to services for all CYP.
* SLTs can support a child taking an individual case to the Children’s Commissioner by enabling the CYP to understand their rights, as well as support communication of any potential failure in having their rights respected.
* SLTs can inform a public authority’s case in defence of complaint against them by the Children’s Commissioner.
1. **Children’s Services Plans:**
* The Act places a requirement on Health Boards and Local Authorities to develop joint plans for children’s services. A children’s services plan must be prepared with a view to securing a service that ‘best safeguards, supports and promotes the wellbeing of children in the area concerned’. Wellbeing indicators are the familiar “SHANARRI” indicators.
* The Act emphasises prevention and early intervention as services must ensure ‘that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising’.
* Service providers may be requested by Local Authorities or Health Boards to contribute and/or participate in the creation of the children’s services plan.
* Yearly reports are required by the local authority and relevant health board on the extent to which services have been provided in accordance with the plan, and also with issues such as the wellbeing of CYP in the area.
* Guidance will be issued by Scottish Ministers on Children’s Services Plans.

**What this could mean for SLTs:**

* SLT services can draw on extensive evidence linking SLC development and ability with achievement of all wellbeing outcomes. This evidence – and evidence from local tests of change, PDSA projects, Early Years Collaborative etc. - can help support a strong case for developing and sustaining quality SLC services including SLT. RCSLT can provide a briefing on and have produced a leaflet to promote the link between SLC development and wellbeing indicators.
* The focus on early intervention and prevention provides a supportive case for SLT services at universal, targeted and specialist levels.
* SLTs are encouraged to participate and/or contribute to children’s services plans in their local area. Key to this will be highlighting the need for SLT services to be included in the joint plans for children’s services. Prevention in particular will become a significant factor in planning service provision and SLT services for CYP demonstrate how early intervention and SLCN assessment is vital in this regard.
1. **Named Persons (NP):**
* A Named Person (NP) will be provided for every child up until the age of 18.
* The NP will normally be employed and appointed by a local authority or health board. The NP Service will be responsible and accountable for the quality of the NP Service – rather than the individual NP.
* A CYP NP will change as they get older. Up until a child is 10 days old, the NP will be the mother’s midwife, and then the child’s Health Visitor will take over until the child starts school. At school, the NP will usually be the child or young person’s Head Teacher, deputy head or principle teacher.
* A NP must have certain competences. Draft statutory guidance and Orders, currently out for consultation, spell out that NP for pre-school children must have *“… undertaken undergraduate, post-graduate or professional training in assessing and profiling the speech, language and communication abilities and needs of [children, young people and parents]. “*
* The main roles of the named person are to “promote, support or safeguard the wellbeing of the CYP” by (1) advising, informing or supporting the CYP, or parent of CYP, (2) helping the CYP, or a parent, to access service or support and (3) discussing or raising a matter about the CYP with a service provider or relevant authority.
* In fulfilling their functions the NP must have regard to the views of the CYP and their parents. Draft statutory guidance highlights in several places that *“Communication or learning difficulties would not be considered an exception to the requirement to obtain and consider the views of the child or parents. Appropriate support should be available to ensure that the Named Person can effectively communicate with children and parents, and the child and parents are supported to understand and effectively express their views as appropriate.”*
* Authorities employing NPs have a duty to communicate information about the role of the NP service
* Authorities, including Health Boards, have a duty to help NPs if requested by NP to do so – unless doing so would be incompatible with duties to other service users or would prejudice services to others.
* Authorities, including Health Boards, must share any information with the NP which they think is relevant to function of the NP , for example serious concern about a child’s wellbeing – and visa versa (subject to rules on confidentiality, relevance of information, views of CYP and parents).
* Not every child will make use of the Named Person, but many will require active support from this person.
* This part of the Act is due to start in August 2016 and statutory guidance or Orders (laws) relating to NP is currently being consulted on.

**What this could mean for SLTs:**

* The NP and Lead Professional role (sometimes fulfilled by SLTs) inter-relate but are different roles. The Lead Professional has no legal role.
* SLTs will be required to support NPs working alongside CYP, who are engaging the active support of a NP.
* SLT services – and individual SLTs – will need to understand their legal responsibilities in relation to sharing information with the NP and responding to requests for help.
* The NP will potentially be a key referrer to SLT for CYP with SLC needs. To ensure all CYP and parents enjoy equality under the Act it will be really important NP can identify SLC difficulties in CYP – and their parents - and respond effectively to these so they can give appropriate advice, seek relevant help (e.g. make appropriate referrals) and enable communication access to the NP service they provide.
* The statutory guidance – should it come to pass – will act as a major driver to increasing demand for developing SLC awareness and SLC related competences (e.g. in screening and responding effectively to SLC needs through inclusive or total communication approaches) across the CYP workforce but particularly the pre-school CYP workforce. In this way it will act to strengthen the business case for maintaining and / or developing SLC services including SLT.
* Improved identification of SLC needs is likely to increase demand on SLT services. Increased demand – supported by legislation and statutory guidance which spreads “ownership” of SLC development - can act to strengthen the business case for maintaining and / or developing SLC services locally - including SLT.
* Availability of resources to support development of these competences and functions of the NP present a significant next challenge for SLC services – including SLT. RCSLT – and others – are calling for a SLC Strategy for Scotland. Children’s Services Plans provide local opportunities to make the case for establishing SLC development plans as part of broader Children’s Services Plans.
1. **Child Plans (focused on individual CYP):**
* The Act requires further joint working of agencies to create Child Plans.
* A Child Plan will be put in place where it is decided – because of a wellbeing concern - they need a “targeted” intervention – that is an intervention which is not “generally available” within the nursery, school etc.
* The Child Plan will contain a minimum data set of information about the child why a CYP needs support, what kind of support they need, for how long and who will provide it. The intention is to create a plan and related information in the one place, rather than separate plans for CYP developed by different agencies. RCSLT understand Co-ordinated Support Plans (associated with ASL Act) will be integrated in to Child Plans. The status of the CSP remains the same.
* Child Plans are to have regard to the views of CYP and parents.
* Child Plans will be written by NP who will seek advice from those who will provide interventions.
* Agencies must respond to requests for help in delivery of the Child’s Plan.
* Guidance will be produced by Scottish Ministers on this part of the Act, again currently being consulted on, and these provisions are due to start in August 2016.

**What this could mean for SLTs:**

* SLC needs are the most common developmental need among CYP. SLT are probably therefore most likely to be party to development and delivery of a child’s plan.
* SLTs will be needed to engage in in the development of child plans and understand the function and status of the Child’s Plan.
* Both the role of the Named Person and also the development of the Child’s Plan will need to take into account CYP and also their parents. To gather the informed views of CYP and parents, it requires them to be able to communicate to the best of their ability and therefore SLTs may become a crucial part of that process.
* SLTS will have a role in supporting NP to enable CYP and parents with SLC need to engage with the Child Plans development, implementation and review.
* Given the role of the NP it will be really important NPs recognise SLC needs, can respond to them effectively and understand SLT service models (i.e. universal, targeted and specialist levels of provision and role of SLTs and others in SLC service provision).
1. **Looked after CYP** (i.e. CYP in care) and Corporate Parents
* The Act improves support for looked after young people to try and make sure they have the same opportunities as other CYP.
* Local Authorities supporting looked after CYP will have where this is something that would be helpful to them.
* The Act enshrines “Corporate Parenting” duties in law and lists which authorities are Corporate Parents. A Local Authority for example, is a listed “Corporate Parent” as are Scottish Children’s Reporter Administration and a health board.
* The Scottish Prison Service is not listed as a Corporate Parent. The Corporate Parent for CYP in custody remains their home local authority.
* Corporate Parents have duties to provide ‘advice, guidance and assistance’ to care leavers up to the age of 26 and ‘to assess the needs of those children and young people for services and support it provides’.
* These provisions are likely to begin from April 2015.

**What this could mean for SLTs:**

* Care experienced CYP are more likely to have delayed or underdeveloped speech, language and communication development.
* SLTs can highlight the disproportionately high SLC needs of this population to Corporate Parents and offer advice and guidance on the SLC services (including SLT) which should be put in place to enable Corporate Parents to fulfil their legal duties. The legal duties of Corporate Parents provide an opportunity to make a case for improved SLC services to this underserved population. In relation to early intervention and prevention, SLT provision may well need to increase in order to assess the speech, language and communication needs of this group, who will become a greater focus as a result of local authorities and others discharging their responsibilities and duties in relation to this group of CYP.
1. **Assessment of Wellbeing:**
* The Act lays down – in law- how wellbeing is to be assessed.
* A person requires to assess whether wellbeing of a CYP is being or would be promoted, safeguarded, supported, affected or subject to an effect.
* Wellbeing of the CYP is to be assessed with reference to the extent to which a child is Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included – commonly referred to as the SHANARRI indicators.
* Assessment of wellbeing reflects GIRFEC National Practice Model (i.e. the Resilience Matrix, Resistance / Vulnerability” Matrix and “My World Triangle”). “My world triangle “includes under “How I grow and develop”... **“Being able to communicate”.** The Resilience Matrixrefers to the ability to“**Talk to** other people about the things that frighten or bother me”. People of all ages with communication support needs have higher incidence of **“Adversity “and “Vulnerability”** characteristics set out in the **“Resistance / vulnerability”** matrix which informs GIRFEC.
* Guidance will be provided by Ministers on this section of the Act. The draft statutory guidance on assessment of wellbeing states *“Speech, language and communication development is important to the overall wellbeing of all children and young people. Assessment, monitoring and review of wellbeing must therefore include the use of evidence-based tools to profile the child’s or young person’s speech, language and communication abilities and needs as appropriate.”*
* This section of the Act will begin in phases and it is anticipated that it will start in full by August 2016.

**What this could mean for SLTs:**

* SLC is fundamental to CYP achieving positive wellbeing outcomes. Action on SLC, driven by appropriate guidance, is likely to have significant impact on CYP wellbeing, development and capacity to thrive and is a foundation to meeting the wellbeing of CYP as this relates to the Act.
* The Act provides an opportunity for SLT services to highlight the value and impact of quality SLC services (including SLT) in relation to cross agencies legal responsibilities to promote, support and safeguard CYP wellbeing.
* The statutory guidance, should it be passed as it is in draft form, puts SLC development and ability at the heart of the assessment of all CYPs wellbeing as well as linking SLC directly to cross agencies legal responsibility to promote, support and safeguard that wellbeing. In doing so the Act provides a strong driver and business case for maintenance and / or development of quality SLC development and support provisions – including SLT services.
* The statutory guidance, should it pass as in draft form, will increase demand for use of evidence-based tools to profile the CYPs SLC abilities and needs.
* Improved identification of SLC needs is likely to increase demand on SLT services. Increased demand – supported by legislation and statutory guidance which spreads “ownership” of SLC development - can act to strengthen the business case for maintaining and / or developing SLC services locally - including SLT.
* Availability of resources to support development of these competences and functions of the NP present a significant next challenge for SLC services – including SLT. RCSLT – and others – are calling for a SLC Strategy for Scotland. Children’s Services Plans provide local opportunities to make the case for establishing SLC development plans as part of broader Children’s Services Plans.

**Summary and concluding remarks**

The Children and Young People (Scotland) Act 2014 is a welcome and wide-ranging piece of legislation that will have an impact on SLT support and services. The communication capacities of CYP and parents are key elements to the delivery of this legislation.

There are many new opportunities for SLTs who work with CYP as a result of the delivery of this Act.

Overall, the Act provides an opportunity, legal driver and strong business case to ensure provision for SLC development and support services is maintained and developed. .

Statutory guidance is currently being developed on certain parts of the Act such as on Named Person’s, Child’s Plans and assessment of wellbeing. The RCSLT is working with the Scottish Government in order to develop this guidance so that it delivers optimum benefit to all CYP and parents.

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