

ABERDEEN CITY COUNCIL

COMMITTEE	Public Protection Committee
DATE	23 rd February 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Brothers and Sisters Legislation
REPORT NUMBER	OPE/22/041
DIRECTOR	Rob Polkinghorne
CHIEF OFFICER	Graeme Simpson
REPORT AUTHOR	Isabel McDonnell
TERM OF REFERENCE	1.2

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to provide to the Committee assurances that Children's Social Work are taking full cognisance of the new duties set out in the legislation relating to the relationship between brothers and sisters.

2. RECOMMENDATION(S)

It is recommended that Committee:

- 2.1 Note and endorse the intentions within this report in relation to realising our legislative duties and how we are going to report on these
- 2.2 That the Council will continue to ensure brothers and sisters children who are safe and are loved will remain within their families.
- 2.3 The presumption that brothers and sisters remain together will be reported annually to the Public Protection Committee within the Corporate Parenting Annual Report.

3. BACKGROUND

- 3.1 The [Promise - Independent Care Review](#) stressed the importance of the relationship between brother and sisters **“children will stay together with their brother and sisters. That presumption must be fully implemented and closely monitored.”** In response to this recommendation new legislation was introduced and came into effect in August 2021 which placed new duties on the local authority to give distinctive and fuller consideration to the significance of the relationship between brothers and sisters.

- 3.2 Scotland's vision is for a society where children's human rights are embedded, protected, and upheld, wholly and meaningfully, across every aspect of their lives.
- 3.3 Every child has a right to respect for family life, including with siblings (Article 16 of the UNCRC). Children who are unable to live with their family have a right under Article 20 of the UNCRC to special protection and assistance, because of the additional support they require securing all their rights.
- 3.4 The UNCRC has long been recognised as an underpinning framework for considering children's rights. In March 2021, the Scottish Parliament voted to incorporate the UNCRC into Scots law. The Supreme Court has ruled that certain parts of the proposed Bill fell out with the jurisdiction of the Scottish Parliament. While still considering the impact of this ruling the Scottish Government has stated it remains committed to incorporating the UNCRC into Scots law to the maximum extent possible.
- 3.5 The United Nations guidelines for the Alternative Care of Children clarifies that brothers and/or sisters with existing bonds should not be separated by placements in care unless there is a clear risk to a child, or it is otherwise in the child's best interests. In each case, every effort should be made to enable siblings to keep in contact with one another, unless this does not promote their wishes or interests.
- 3.6 Corporate Parenting is set out in the 2014 Children (Scotland) Act. It requires all public sector organisations to collaborate with each other to take actions necessary to uphold rights and safeguard wellbeing of looked after children, young people and care leavers up until they turn 26 years. Corporate parents must understand and embrace this role and work proactively together to pursue positive outcomes both for individual brothers and sisters, and for all care experienced brothers and sisters at a systemic level.
- 3.7 The amended 2021 legislation requires the local authority when it is considering placing a child out with parental care must, where appropriate, place the sisters and/or brothers together. Where this is not possible the brothers/sisters must be placed in homes near to one another and to mitigate as far as possible their separation from each other.
- 3.8 Aberdeen City Council welcomes the strengthened legislative position in relation to brothers and sisters. Local practice in relation to this aspect of practice is strong. Evidence of this was noted within the 2019 multi agency inspection of Aberdeen City. Social work staff are required to evidence both the rationale for separating brothers and sisters and what mitigation is being put in place to promote and strengthen their relationship.
- 3.9 The views of brothers and sisters must be actively sought, listened to, recorded and considered when decisions are being made about their care. This includes taking account of brothers' and sisters' views about a child coming into care, and when any other important decisions are being made. The recent legal change adds siblings to the persons the local authority has a duty to ascertain

the views of before making decisions about a child who is looked after by them, or whom they are proposing to 'look after'.

- 3.10 Legislative changes within Sections 14 and 25 of the 2020 Act relate to Children's Hearings' and creates an explicit duty on Children's Hearings and on a Sheriff, when making, changing, or continuing a Compulsory Supervision Order for a child, to consider contact between the child and any siblings they are not living with.
- 3.11 What we know is that a sibling relationship is likely the longest standing relationship a person may have. Children who grow up together, where it is safe to do so, with their brothers and sisters when they are looked after away from parental care are likely to have better outcomes than children who are separated from their brothers and sisters.
- 3.12 In January 2021 to increase our understanding of how brothers and sisters are cared for by Aberdeen City Council, our Independent Reviewing Officers (IRO) sampled a number of children/sibling groups. An IRO reviewed their profile focusing on the decision making around whether they would be cared for together or separately, where they were placed and the arrangements for them to spend time together.
- 3.13 The IRO team were asked to provide examples which highlighted both strengths and vulnerabilities within the multi-agency planning for children in this context. There were many examples identified, in the main these were positive examples of good practice where sibling assessment had been undertaken with decision making processes clearly outlined. There were also some examples of challenges including
- Identifying alternative care arrangements for large sibling groups, which enables brothers and sisters to remain together, is a longstanding challenges for agencies.
 - The diversity of family structures mean that some brothers and sisters grow up with minimal contact with each other. Social work intervention needs to consider not just 'full' sibling relationships but also 'half' siblings even when their brother or sisters don't live within the same household.
 - Brothers and sisters who have a large age differentiation.
- 3.14 Some other areas for improvement were also identified in the recording of children and young people views and the decision-making processes being clearly recorded.
- 3.15 Clear processes ensure that practitioners know what needs to happen, when, and by whom to uphold the rights of brothers and sisters. We have revised our decision-making processes at the point authority is sought to accommodate children to ensure clear parameters of what needs to be done and when, which

helps practice remain focused on the child's needs and for decisions to be made without any unnecessary delay.

- 3.16 Taking account of the aforementioned and the [Staying together and connected](#) guidance. We have established a working group to update our local guidance and this will be shared with the workforce.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 The Corporate Parenting duties included in Part 9 of the Children and Young People (Scotland) Act 2014 are designed to ensure that the attention and resources of various organisations are explicitly focussed on the task of safeguarding and promoting the wellbeing of looked after children and young people, and care leavers. This part extends the duties of corporate parents and the reporting responsibilities of local authorities.

- 5.2 Aberdeen City Council has a duty to report to Scottish Government Ministers every three years on how it is meeting its corporate parenting responsibilities as detailed in the Children and Young People (Scotland) Act 2014. The second submission to the Scottish Government was provided in March 2021. The Council has a responsibility to continue to comply with its statutory obligations.

6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Strategic Risk	That the multi-agency workforce training delivery plan is insufficiently supported	M	There is a robust delivery plan and support at a senior level
Compliance	The Council has responsibility to comply with its legal requirements and statutory corporate parenting responsibilities	L	The Corporate Parenting Plan has partnership support.
Operational	Care experienced children and young people are a	L	These are duties which have been incorporated across existing structures

	vulnerable cohort whose needs require to be recognised and met. Competing resource demands may have an impact		and will be consolidated in practice
Financial	Not required for this report		
Reputational	A failure of Aberdeen City Council to comply and meet its Corporate Parenting and legislative responsibilities would reflect negatively on the Council	L	There is a strong legacy of positive practice in this area
Environment / Climate	Not applicable for this report		

7. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
Impact of Report	
Aberdeen City Council Policy Statement	The proposals in this report have no impact on the Council Delivery Plan.
Aberdeen City Local Outcome Improvement Plan	
Prosperous People Stretch Outcomes	<p>The proposals within this report support the delivery of LOIP Stretch Outcome 6 – 95% of care experienced children and young people will have the same levels of attainment in education, health and emotional wellbeing, and positive destinations as their peers by 2026.</p> <p>The report seeks to provide an annual update on Corporate Parenting progress and activities, including the following improvement projects within the LOIP:</p> <ul style="list-style-type: none"> • Increase the number of care experienced young people accessing a positive and sustained destination by 25% by 2022 • Increase to 43% by 2023 the proportion of children and young people who are supported to live in kinship care or are looked after at home by 2023 • Increase by 20% the number of children and young people remaining in a placement

	<p>looked after at home/kinship between 16-18 years old by 2023</p> <ul style="list-style-type: none"> • Increase the number of care experienced young people by 10% receiving multi-agency throughcare/aftercare support by 2023
<p>UK and Scottish Legislative and Policy Programmes</p>	<p>This report considers the local authority's legal obligations in respect of the legislation and policy outlined below:</p> <p>The Children and Young People (Scotland) Act 2014</p> <p>UNCRC (Incorporation) (Scotland) Bill 2021</p> <p>The Promise</p> <p>Plan 21-24</p> <p>GIRFEC</p>

8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	Not required
Data Protection Impact Assessment	Not required

9. BACKGROUND PAPERS

<https://www.gov.scot/publications/staying-together-connected-getting-right-sisters-brothers-national-practice-guidance/>

https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf

<https://thepromise.scot/plan-21-24-pdf-standard.pdf>

<https://www.gov.scot/publications/statutory-guidance-part-9-corporate-parenting-children-young-people-scotland/documents/>

10. REPORT AUTHOR CONTACT DETAILS

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