Key points

- Recognition of the scope of children’s services provided by the voluntary sector
- The children’s services planning proposals are welcome but should place a stronger duty on statutory partners to work collaboratively with voluntary sector providers and others
- The Bill and/or guidance needs to clarify the link between children’s services planning, and strategic and locality planning by ‘integration authorities’ proposed in the Public Bodies (Joint Working) (Scotland) Bill, and with community planning partnerships
- The Bill should provide for independent scrutiny of children’s services planning by the Care Inspectorate/Health Improvement Scotland and other relevant bodies
- Information-sharing in connection with the Named Person service must recognise the differences between statutory and voluntary sector providers
- The child’s plan sections must recognise the key role of voluntary sector providers, enabling participation where appropriate in the planning, management and review process

CCPS is pleased to have the opportunity to provide a written submission to the Committee in connection with its Stage 1 consideration of the Children and Young People (Scotland) Bill. We welcome the Government’s policy objectives of enhancing children’s rights and improving services, among others, and the Bill forms a significant part of the matrix of different initiatives underway to achieve these aims.

Many of our members will be making individual submissions to the committee with respect to their specific areas of interest, their mission and their charitable objectives. This submission, in line with the aims and objectives of CCPS, focuses on issues of importance to voluntary organisations in their capacity as providers of children’s services. In that regard, we begin by returning briefly to evidence we submitted to the Committee in June 2012 during its review of the scope of children’s services in the voluntary sector. We think this is useful background information for the Scottish Parliament to have when considering both the general principles of the Bill, as well as the practical impact.

The scope of children’s services in the voluntary sector

The voluntary sector makes a significant contribution to children’s services in Scotland. More than a third of all care and support services registered with the Care Inspectorate are provided by voluntary organisations; approximately 27% of all registered children’s services (excluding childminding: 11% including childminding) are provided by the voluntary sector.

Over 20% of the social services workforce in Scotland in respect of registered children’s services is employed by voluntary organisations (rising to 23% excluding childminding).

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These figures show that the voluntary sector makes a particularly significant contribution, proportionally, in respect of day care, and of residential child care, fostering and adoption (in other words, care and support for looked after children). In addition, the voluntary sector is a leading provider of care and support to disabled children and their families in their own homes.

**Comments on the Bill as it affects service providers**

**Part 3 - Children’s Services Planning**

The proposals in the Bill for service planning build on the provisions in the Children (Scotland) Act 1995 but appear to fall short of the level of collaborative strategic planning that is being developed in the context of the integration of adult health and social care. In the Public Bodies (Joint Working) (Scotland) Bill, integration partnerships must establish consultation groups (that include the voluntary sector, carers and users, in addition to the statutory partners) to jointly work on strategic planning. This is a significant step up from the ‘duty to consult’ requirements in the Children’s Bill, not least because it involves a range of stakeholders (including voluntary sector providers) from the beginning of the planning process, and includes both a set of principles and a structure for the process.

The development of joint strategic commissioning in the context of adult health and social care integration is seen as having real potential for improving the involvement of voluntary sector providers in the planning and design of services, as well as reorienting investment and activity to improve outcomes for service users. We would like the Committee to consider how the children’s services planning provisions can be strengthened to reflect a similar approach.

Interestingly, while there is only a basic ‘duty to consult’ with voluntary sector service providers, there appears to be a ‘duty’ placed on voluntary and independent sector providers, social landlords and others (in s.10(6)) to ‘meet any reasonable requests to participate or to contribute to the preparation of the plan’. We clearly welcome wide participation in the planning process (as noted above), but we query the extent to which this legislation can place ‘duties’ on non-statutory bodies. Thus we would like to see clarification of the meaning of this provision in relation to both the policy aim and the legal impact. As set out above, we consider the approach taken in the context of the Joint Working Bill, (where duties are placed on statutory bodies to undertake a process of joint planning that includes voluntary sector providers and others) to be a good model.

Related to the Joint Working Bill, we think clarification is required about the relationship between the children’s services planning process and the different planning processes envisaged for integration authorities, particularly where those authorities decide to include children’s services within their partnerships, as well as in relation to community planning partnerships. This may be a matter for clarification in guidance but as it currently reads, there could be duplication of planning processes; and as noted above, there is also a significant difference in the process of involvement of voluntary sector providers and others, as between the different processes.

In the context of involvement in strategic planning, it is notable that the financial memorandum anticipates no extra costs as a result of these planning proposals based on the assumption that local authorities already have a duty to produce integrated children’s services plans. Unfortunately, there is no consideration given to the costs that might come with wider participation in the planning process by voluntary sector providers and others. We think that there will be potential costs to voluntary sector providers, not just from engagement with the planning process but also in connection with the duties to provide information, advice and assistance (e.g. ss.14, 26, and elsewhere in the Bill) and that this should be reflected in the financial memorandum.

With respect to monitoring and scrutiny, we note that the local authority and each relevant health board will have a duty (s.13) to report annually, setting out how their aims have been achieved and what the outcomes are (referring to outcomes that will be prescribed by Scottish Ministers,
and linked to the idea of wellbeing and the SHANARRI indicators). We suggest that the Committee consider the advantages of including a role for the Care Inspectorate (CI) and Health Improvement Scotland (HIS), and other relevant scrutiny bodies, specifically in relation to the children’s services planning process. This would mirror similar developments in relation to the commissioning of integrated services for adults. The integration of adult health and social care proposals contained in the Joint Working Bill also include a duty on local partnerships to report annually on their strategic plans. But in addition, the policy memorandum makes it clear that the CI and HIS will be required to scrutinise the joint commissioning process (although this is not reflected in the bill itself; something that CCPS will be seeking to address during the parliamentary process). In light of recent CI/HIS joint children’s services inspection reports, which identified much room for improvement in respect of strategic planning, there is clearly a need for this kind of scrutiny/improvement support in the context of children’s services planning and in our view, this ought to be set out in legislation rather than remaining a matter of policy.

S.14 introduces a general duty to comply with reasonable requests for information, advice or assistance from the local authority or health board in exercising their functions under this part. This duty applies to ‘other service providers’ and also to organisations representing users, voluntary and independent sector providers, social landlords and others (as defined in s.10(1 and 2)). There is an exemption provision which allows a person to refuse if they consider it would be incompatible with any of their ‘duties’; or ‘unduly prejudice the exercise of any function.’ As noted above, we are unsure about the extent to which legislation can placed duties of this nature on independent voluntary organisations; we are also concerned that the wording appears open to wide interpretation and we believe it would benefit from tighter drafting and clear guidance so that voluntary sector providers can clearly understand the circumstances in which requests for information can be refused.

Part 4 – Named Person

The named person provisions will have an impact on voluntary sector providers most directly as a result of the s. 26 duty on service providers (including voluntary sector providers) to share information. This section highlights the tension between the child’s right to confidentiality and the practical necessity of sharing information between different services, including between the voluntary sector and statutory sector. As currently drafted, it appears to give power to local authorities and health boards to access a very wide spectrum of information, some of which may be commercially sensitive for providers or which might raise issues of confidentiality in relation to children or adults who are receiving services from voluntary sector providers.

In particular, clauses (3) and (4) appear to relate to any information which may possibly affect the wellbeing of a child, rather than to the named person. These are very broad information sharing responsibilities and could be interpreted to cover almost everything held by a voluntary sector provider.

We believe that this section needs to strike a careful balance between access and confidentiality, and to recognise the important differences between voluntary and statutory sector service providers. As such, we would ask the Committee to clarify its scope and to recommend the necessary drafting changes to achieve greater clarity.

Part 5 - Content of Child’s Plan

This part sets out the circumstances in which a responsible authority is required to produce a child’s plan, what it should contain, and how it should be developed. The plan must state the wellbeing need identified by the relevant authority which has triggered the need for a plan and contain a statement of the ‘targeted intervention’ required to be provided to the child (s.32). Targeted interventions do not appear to include non-statutory services – they are defined as a service provided by a relevant authority – which in turn is defined as the health board, local authority or directing authority (e.g. grant-aided schools).
In respect of the management and review of a child’s plan (s.37), there is a requirement for the managing authority to consult with other statutory providers and the child and parents. There is no mention of consultation with voluntary sector providers who may be providing the ‘targeted intervention’.

We suggest that it would be sensible, given the extent of voluntary sector service provision for children and young people, for the child’s plan to include services provided by the voluntary sector, where appropriate. And equally, for there to be consultation with voluntary sector providers, in the context of the management and review of the plan, where they are involved in providing a ‘targeted intervention’ set out in the child’s plan. We would ask the Committee to explore whether this could best be achieved by amending the definition of ‘targeted intervention’ in the Bill or through regulation or guidance.

In a similar vein, we would like to make one final point about the corporate parent sections of the Bill. Corporate parent is defined to include statutory bodies only. However, many voluntary sector providers take on a lead role in supporting children and young people in circumstances that could be considered to be the equivalent of the corporate parent role. We would welcome clarification of the position of voluntary sector providers in such circumstances.

This evidence is submitted by CCPS for and on behalf of its children’s services members:
Aberlour Child Care Trust; Action for Children; Barnardo’s Scotland; Camphill Scotland; Capability Scotland; Children 1st; Cornerstone; Crossreach; Includem; Kibble; NSPCC Scotland; Penumbra; Quarriers; Sense Scotland; The Mungo Foundation; Who Cares? Scotland; VSA.

About CCPS
CCPS is the coalition of care and support providers in Scotland. Its membership comprises more than 70 of the most substantial care and support organisations in the voluntary sector, including the leading sector providers of services for children, young people and their families. Collectively, CCPS children’s services members:
• support more than 150,000 children, young people and families in Scotland
• employ 5,800 staff
• manage a combined total income in Scotland of over £160 million, of which more than 80% relates to publicly-funded service provision.

Services provided cover the range of services to children, young people and families including early years provision; family and parenting support; residential child care and other support for looked after children; support for children and young people who have experienced abuse and neglect; support for disabled children and young people and their families; young people with mental health problems; and services for young offenders.

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