Consultation on DRAFT National Guidance
for Child Protection in Scotland 2020

INTRODUCTION

Children's Health Scotland, (CHS), welcomes the opportunity to respond to the Scottish Government's consultation on the revised National Guidance for Child Protection in Scotland 2020.

BACKGROUND

The Consultation on the revised National Guidance for Child Protection in Scotland 2020 is seeking views on updated National Guidance for Child Protection in Scotland, which will replace the current National Guidance published in 2014.

The National Guidance describes the responsibilities and expectations of everyone who works with children, young people and their families in Scotland. It sets out how agencies should work together with children, young people, parents, families and communities to protect children from abuse, neglect and exploitation.

The National Guidance should underpin local multi-agency child protection procedures, guidance and training and can inform pre-qualifying practice education. It should provide a source document to enable Child Protection Committees to develop local guidance for their partnership. Local guidance, aligned to the National Guidance, provides fuller detail on local processes and operational issues. The National Guidance is set within a broader range of materials, guidance and training which local areas should draw on to inform local practice and policy development.

The draft aims:

- to be more embedded within Getting it right for every child (GIRFEC)
- to respond to a greater breadth of issues relating to child protection
- to find balance between specific situations and broad guidance
- to support the provision of an equal level of support for all children, finding balance between national and local support.

The national guidance is non-statutory guidance, and the revision has been required to ensure that it is consistent with the current policy framework. It must:

- be supported by learning and change,
- fit within prevention and early help,
- connect with a whole range of new and emerging law,
- use a shared language across agencies and partnerships,
- respect idiosyncrasies of rural and island groups.

CHILDREN'S HEALTH SCOTLAND

Children's Health Scotland (CHS) is the leading children's health charity in Scotland. It is the only charity in Scotland dedicated to informing, promoting and campaigning on behalf of the needs of all children and young people within our healthcare system. How the organisation does this is informed by our Vision, which is "*for every child and young person in Scotland to realise their right to the best quality healthcare"* and our Purpose, which is, "*to make sure children and young people get the treatment they need*". The organisation works to inform children and young people, along with their parents and carers of:

- Health rights and responsibilities.
- Where to access information and support.
- What they should expect from health service providers.

Ultimately, we want to empower children and young people to participate in decisions about their treatment and care. To achieve this, we work in partnership with children and young people, the Scottish Government, NHS, the voluntary sector and health professionals. This is so that health services are planned in child-focused environments that are equipped with appropriate ratios of trained staff. We actively promote the use of evidence-based practice to provide high quality healthcare services at home, in hospital or in the community. All while working to obtain equality of services and access across Scotland.

CONSULTATION QUESTIONS

Q1: Advice and Accessibility

This guidance seeks to provide advice to local partnerships and agencies to inform the development of local guidance and has been structured in sections that are intended to be standalone and accessible to practitioners seeking advice on particular aspects of practice.

In your view, does the guidance fulfil these objectives?

YES. The revised National Guidance is comprehensive and should provide detail and guidance for those seeking advice on aspects of practice.

Q2: Legislative and Policy Development

This revised guidance seeks to reflect legislative and policy developments since 2014 and include relevant learning from practice and research.

Are you aware of any additional legislative or policy developments, research or practice that should be included?

TO SOME EXTENT. The General Medical Council guidance on shared decision making, and Realistic Medicine, both emphasise the need for doctors to involve the patient in any decisions relating to their healthcare. This should also apply to children and young people, as well as UNCRC requirements that affect young people up to age 18. This may have relevance for Police Surgeons when the child or young person has learning or communication difficulties.

Q3: GIRFEC Practice Model

Our aim is to ensure that the guidance is fully integrated with the language and core components of the Getting it right for every child (GIRFEC) practice model.

Do you think the revised National Guidance for child protection is integrated with the GIRFEC practice model?

YES. CHS is aware that the guidance has been informed by the Children's Charter, the Development of the UNCRC Practice Model, the Child Protection Improvement Programme 2016, and the Independent Care Review 2020 and is underpinned by a preventative approach that effectively links into Getting it right for every child (GIRFEC) practice model.

GIRFEC, as the national policy framework, is aimed at supporting the health and wellbeing of children and young people and embeds the articles of the UNCRC into practice and promotes a rights-based approach. The Child Protection Guidance consistently references the UNCRC and CHS welcomes this as incorporation of the UNCRC into our domestic law approaches.

In relation to child protection and children's health, CHS has a particular interest in Article 24 (health and health services) which ensures that every child has the right to the best possible health. From a child protection perspective this means the Scottish Government has a duty to provide good quality healthcare, clean water, nutritious food, a clean environment and education on health and wellbeing so that children and young people can stay healthy. To summarise there is a duty to support:

- The mental, emotional, social and physical wellbeing of children and young people.
- Planning for choices and changes.
- Physical education, physical activity and sport.
- Food and health.
- Substance misuse.
- Relationships, sexual health and parenthood.

However, it is the view of CHS that Article 24 is consistently undermined by poverty and disadvantage which ultimately threaten the health and wellbeing of children and young people. The lives of children and young people with long-term health conditions are very complex and can involve a variety of health practitioners. Respecting their views, experiences and their right to the best possible health is of paramount importance. It is also worth mentioning that it is often difficult to secure an interpreter when children and young people need to talk about their health and wellbeing, so staff often work through parents. CHS believe it is important to always try to secure an independent interpreter who adheres to professional codes of practice. Our recent Minority Ethnic Health and Information Service MEHIS survey highlights that gaps in the current provision of professional interpreters which is resulting in poor practice, despite well-meaning staff.

Most would agree that the GIRFEC National Practice Model provides shared practical concepts within assessment and planning. Those within our sector are familiar with the core elements such as the 'SHANARRI' wellbeing indicators, the My World Triangle, and the Resilience matrix. Together they support holistic analysis of safety and wellbeing, dimensions of need, and the interaction of strengths and concerns.

CHS would like to see the European Association for Children in Hospital (EACH) Charter embedded into the 'core element' thinking. EACH is currently mapped to the UNCRC and the wellbeing indicators from the GIRFEC approach in our e-Learning resource and can therefore support awareness raising of Children and Young People's Health Rights www.enetlearn.com/childhealthscot.

In relation to GIRFEC and Education page 52 states that: "*Education services have responsibilities towards children educated at home. Home educators and local authorities **are encouraged** to work together to develop trust, mutual respect and a positive relationship in the best educational interests of the child. The welfare and protection of all children, both those who attend school and those who are educated by other means, is paramount. Whilst a child educated at home may have limited engagement with services which could otherwise help ensure their safety and wellbeing, home education is not in itself a child protection issue. Further guidance to parents and local authorities on home education has been published by the Scottish Government.*"

CHS is concerned that children with long-term health conditions or who are chronically ill and are home-schooled may not receive the protection they need because of either neglect or a lack of awareness about aspects of their conditions.

In 2016 a case was highlighted by the Coalition for Responsible Home Education (CRHE). Emil and Rodica Radita were charged with first-degree murder in connection with the death of their 15-year-old son Alex who was diagnosed with diabetes at a young age. Prosecutors said the pair killed him by slowly starving him and neglecting to give him the medical care his condition required.

Sarah Henderson of CRHE went on record as stating that the case highlighted where home-schooling and medical neglect intersect: "*We don't even know how many people are being isolated, home schooled, not being taught anything, not being given medical care, being abused, we don't even know because no one's even counting them.*"

CHS requests that the National Guidance reflects the concern that home schooled children may have their right to the best health possible health (UNCRC Article 24) withheld if there is no adequate surveillance of home-schooled children and young people. Home educators and local authorities **must work** together in the best interests of the child.

Q4: Practices and Processes

Part 3 seeks to accurately and proportionately describe the practice and processes critical in the protection of children.

Are there any practices or processes that are not fully or clearly described in the guidance? If so, please state which processes/practices are not fully or clearly described and suggest how the description could be improved.

TO SOME EXTENT. In relation to **significant transitions** the guidance requires '*assessment and that transitions must be planned in good time, together with parents and carers, in accordance with applicable local procedure. These are phases of heightened and predictable vulnerability, as children move between services or life stages. Disabled children and young adults must be provided with appropriately adapted learning methods and resources so that they can help to keep themselves safe as they grow up.'*

Firstly, of critical importance, is that the guidance should make it clear from the outset that transitions, and any associated planning, belong to the child or young person. Transition is a process not an event. As such, it involves many services, agencies, and people. It is vital that the process is managed through the application of robust and coordinated plans to ensure that all children and young people get the personal support, information, and resources they require. This will ensure equality of access and better outcomes for all, not just for those children and young people who have parents or carers to advocate for them. Consultation around plans should be based around GIRFEC and is likely to need to include the involvement of adult health and housing.

CHS is aware that a disabled child or young person may well be involved with several plans. Therefore, care needs to be taken that these are viewed as one plan for every child or young person and not a series of unrelated plans. We would recommend that careful planning and consultation would keep any disputes to a minimum.

For many children and young people with long-term health conditions such as autism, the move to a new home is a stressful transition and so decisions on care accommodation should be considered in regard to the potential risk to mental health.

In relation to translation and interpretation, the guidance sets out good practice. However, it should also state that the parents must not translate, or appear to need to translate, or speak for the child where abuse or neglect is suspected. This is particularly important in health settings and GP surgeries where children usually attend with a parent. Professional interpreters, preferably with experience of working with children, within their code of practice, should be used as far as possible Page 202, point 361 (Right to be heard (UNCRC) Article 12).

Q5: Assessment Section

A new section of this National Guidance (Assessment part 2b) provides advice about child protection assessment practice.

Is this section sufficiently clear and does it cover all of the aspects you would expect?

TO SOME EXTENT. CHS believes that the general principles that involve children and families in child protection processes are clearly outlined and respect the needs and rights of children and young people. However, they need to be communicated in an appropriate way to children and young people.

There is the potential for an adverse effect on a child's mental health and wellbeing when a decision is made that restricts their contact with their extended family or fails to specify what access is permitted to members of the extended family. This may also interfere with the work of the identified lead carer, especially in regard to Kinship care.

Q6: Description of child protection processes and procedure

This National Guidance covers the consideration, assessment, planning and actions that are required, when there are concerns that a child may be at risk of harm. It also provides direction where child protection procedures are initiated. This is when Police, Social Work or Health determine that a child may have been abused or may be at risk of significant harm and an Inter-agency Referral Discussion (IRD) will take place.

Are the processes and procedures that lead to and follow IRD clearly described within the Guidance?

YES. The processes and procedures that lead to and follow IRD are clearly described within the Draft National Guidance. The flowchart that outlines the Child Protection Process to identifying and responding to concerns is particularly welcomed. It is relevant to specify how the information from the IRD is shared with others involved in the assessment of the child.

Q7: Integration of health guidance

We have integrated previously separate guidance for health practitioners into the revised guidance and more clearly defined the key role of health in protecting children at risk of harm from abuse or neglect.

Do you have any comments on specific aspects for health practitioners?

Page 51, points 141-143 state that: "*Commissioned and non-commissioned services should have organisational policies and protocols in relation to child protection. Anyone who has cause for concern about a child or adult at risk of harm should share information according to their organisation's local protocol. Within adult services, consideration should be given to the impact of the additional needs or potential risks relating to a significant person in the child's world.*

"All agencies and organisations working with children and young people are expected to have safe recruitment practices, and child and adult protection procedures, in line with the national guidance. They should provide training relevant to information sharing and potential child or vulnerable adult protection for staff, volunteers and board or committee members.

"Safety is promoted by a clear reporting framework which includes learning from past mistakes, and by an open communication culture in which the views and concerns of those receiving and providing services are heard."

CHS welcomes the detailed involvement of the third sector within the integration of health guidance. Health professionals - such as School Nurses, GPs, Pharmacists and Community Health Teams – are well placed to identify potential child protection concerns in the community. However, it might be helpful for the third sector if there was detailed guidance and/or examples of best practice on Child Protection protocols. There is an expectation to have safe recruitment practices and protection procedures in place within organisations in relation to child protection, but should these be submitted to a verifying body to ensure they meet with national guidance? Perhaps some kind of kitemark or stamp to demonstrate that the organisation meets all relevant standards in relation to child protection?

Health and Social Care professionals who interact with adults have a responsibility to consider how the adult's health, both mental and physical, may affect a child's safety. This includes drug and alcohol services, mental health services and Primary Care. General Medical Council guidance specifies the duty of every doctor to consider the potential need for safeguarding of children in their own area of practice and to use local protocols when appropriate. There may be a case for a health helpline to be accessible for professionals to seek advice in this regard when referral to Social Services is not indicated.

Q8: Neglect

The draft National Guidance defines 'neglect' as child abuse, where it: "Consists in persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. There can also be single instances of neglectful behaviour that cause significant harm. Neglect can arise in the context of systemic stresses such as poverty and is an indicator of support needs."

Do you agree with this definition? Please provide additional comments.

YES. In terms of children's health rights UNCRC (Article 24) and (Article 27), overall the state must ensure children have a standard of adequate living for their physical, mental, spiritual, moral and social development. It identifies those responsible for the child to be able to provide for it 'within their financial capacities'. However, states have a responsibility to support parents to ensure nutrition, clothing and housing are met. Therefore, it can be argued that the 'systemic stresses such as poverty' can contribute to a child's failure to thrive and are not within the scope of the parent to change.

Perhaps consideration should also be given to:

- Inappropriate nutrition as a form of neglect – both under and over – and a failure to follow nutritional advice or to take action when diet is adversely affecting a child's health?
- Obesity, as this may be related to poverty and the ability to buy nutritious food.
- Poverty: Suggest that the sentence 'Poverty must never be a reason for removal of children from the care of their family' should be a standalone point as it gets lost at the end of the paragraph. Page 130 point 3.

Q9: Neglect

Recognising that it is a complex area we also include some discussion about whether neglect should be defined as abuse where it is "a consequence of systemic stresses such as poverty."

Do you agree with this approach?

YES.

Q10: Pre-birth assessment and support

Part 4 of the National Guidance sets out the context in which action is required to keep an unborn baby safe. Part 3 sets out the processes for this.

Do these parts of the guidance clearly and fully set out the context and processes?

TO SOME EXTENT. Mothers must be enabled to make healthy choices and be supported to do so, whilst maintaining the right to their own body/child (agency and autonomy). The parameters and actions to support a healthy pregnancy could result in women being 'criminalised' and state interference in their rights and choices (some of which may be out with their control such as nutrition, work choices etc.). It will be important to ensure a non-judgemental approach by staff. In protecting the unborn child could we be castigating and persecuting women as an unintended consequence of this approach?

Q11: Specific areas of concern (Part 4)

Do all sections of Part 4 of the National Guidance address the specific areas of concern appropriately?

Please let us know any sections you do not think address the specific area of concern appropriately and suggest how these could be improved.

TO SOME EXTENT. In relation to the prevention of harm, it is important that families and support services work together in a co-productive way with the aim of being encouraging and not punitive. For families in need this will include attending to, listening, and supporting their needs. They may also require mental and physical support to reduce poverty. For equity for all, it is also important to ensure digital access (including wifi affordability) is not a barrier to accessing services and information.

Q12: Implementation

The Scottish Government considers that Chief Officer Groups and local Child Protection Committees, supported by Child Protection Committees Scotland, the Scottish Government and a range of other partners, are the key fora for implementation of this Guidance.

Do you agree or disagree? Please explain your answer.

AGREE. No further comment.

Q13: COVID-19

During the COVID-19 pandemic, it has been necessary to adapt practice to ensure continuity of child protection processes. Learning from the pandemic and examples of best practice will be incorporated into the National Guidance.

Are there adapted processes that you would like to see continued? Please provide further information.

YES. Covid-19 has highlighted the impact of digital exclusion. Good practice would be to ensure digital access is continued for those in need, so that it is always available when required by children, young people, and families. The aim would be to ensure they are never excluded and to enable reporting and access to information and support.

Q14: Do you have any further comments on the National Guidance?

This is a comprehensive and well framed guidance document. It looks at the child and family in a kind, inclusive and empowered way, engaging with support and help agencies, rather than a 'body' that shifts through an uncaring system.

CHS would reinforce that timely, accessible and appropriate health services, including mental health and wellbeing services, and other support services will enable children at risk of harm to be helped quickly.

For children with communication difficulties, it is essential that any assessment is planned to ensure that their needs for assistance are considered within the requirement for respect for privacy and confidentiality. In the section on FII there should be recognition of the additional difficulties in making the diagnosis when a child has pre-existing medical conditions requiring medical treatment and the need for early confidential inter-professional discussion of any concerns regarding apparently inappropriate action by carers.