

**Please note:**

**Next meeting:**

**Thursday 6<sup>th</sup> November 2003, 1pm**

**Venue – Quaker Meeting House**

**Chair – Rosie Kane MSP**

**Topic: Anti-Social Behaviour**

**Cross-Party Group on Children and Young People**

**Minutes of the Meeting**

**Thursday 2<sup>nd</sup> October 2003, 1.00pm**

**Quaker Meeting House, Edinburgh**

**Attending MSPs:** Scott Barrie (Chair); Rosemary Byrne; Robert Brown; Rosie Kane

**In Attendance:** Kelly Bayes (Aberlour Child Care Trust); Kate Berry (SPICe); David Cameron (Advocacy Safeguards Agency); Mary Dallas (RNIB Scotland); Sunanda Docherty (Scottish Society for Autism); Ingrid Fitzsimons (Children in Scotland); Eddie Follan (Children in Scotland); Cllr Charlie Gilbert (East Renfrewshire Council); Nancy Gray (ENABLE); Shelley Gray (Children in Scotland); Bryan Gregg (Shelter Families Projects); Douglas Hamilton (Barnardo's Scotland); Gillian Harrow (Save the Children Scotland); Matt Henderson (Glasgow City Council Cultural & Leisure Services); Janet Law (Scottish Out of School Care Network); Lisa McCormick (Princes Trust Scotland); Fiona McFarlane (Capability Scotland); Robert McGeachy (Youthlink Scotland); Shabnum Mustapha (National Autistic Society); Gina Nowak (Glasgow University & Barnardo's); Judy Panton (Family Fund); Nicola Pay (Children in Scotland); Zoe Sier (Bahá'í Council for Scotland); Fiona Strachan (Adoption UK); Carrie Varjavandi (Bahá'í Council for Scotland);

**1. Apologies**

Donald Gorrie MSP; Elaine Smith MSP

**2. Minutes from 4<sup>th</sup> September 2003**

The minutes from the last meeting were agreed as an accurate recording of proceedings.

**3. Matters Arising**

There were no matters arising.

**4. Education (Additional Support for Learning) Scotland Bill: Background**

- Eddie Follan, Children in Scotland

Eddie provided a background to the Bill and an overview of the main provisions.

*A copy of Eddie's presentation is attached.*

## **5. Key Issues from the Draft Bill**

- Dr Stuart Aitken, SENSE Scotland

Stuart gave a presentation on the key issues of the Bill.

*A copy of Stuart's presentation is attached.*

## **6. Additional Support for Learning: The Legal Perspective**

- Ian Nisbet, Govan Law Centre

Ian discussed the legal aspects of the Bill.

*A copy of Ian's presentation is attached.*

*In the discussion that followed, Scott Barrie mentioned that similar issues had been raised in a previous meeting of the Cross Party Group and that it was good to highlight these issues.*

*Charlie Gilbert asked if law could be separated from duty and explained that Local Authorities could be tied down by financial considerations.*

*Ian Nisbet replied that, under the current system, financial considerations are irrelevant but the Draft Bill revises this situation. Ian explained that currently, Local Authorities can opt for cheaper provision when they have a choice, but they don't have an option not to meet needs at all. The new proposals could reverse this so that it is not a duty but a matter of discretion. Ian noted that the Parliament has the power to do this but if they do then we need to know about it.*

*Douglas Hamilton raised the issue of children's rights, commenting that Barnardo's response to the Draft Bill focused on a large group of children and young people who would be covered by the broader category of additional support needs but would not require a Co-ordinated Support Plan (CSP) . Douglas pointed out that many children and young people have additional support needs as their parents cannot look after them properly. He expressed concern that in this situation parents would have rights under the Draft Bill but their children would not.*

*Scott Barrie agreed and highlighted the amendment brought through the cross party group, on the Standards in Scotland's Schools Act (2000), ensuring that children with legal capacity could appeal school exclusions. Scott mentioned that the issue about children's rights may well be addressed in the final Bill.*

*Sunanda Docherty highlighted the fact that 35,000 children had a Record of Needs and asked what legal backing they would have with the Co-ordinated Support Plan. Sunanda also mentioned that there were many autistic children in mainstream settings and questioned what legal backing they would have under the new proposals.*

*Eddie Follan replied that the Scottish Executive have indicated that approximately 10,000 children would get Co-ordinated Support Plans. Eddie noted that the provisions on the draft Bill meant that the Individualised Educational Programme (IEP) would be the main recording tool for those children who had an additional support need but did*

*not have a Co-ordinated Support Plan. The Education Committee have taken pre-legislative evidence from Professor Sheila Riddell of Glasgow University on this matter.*

*Stuart Aitken went on to say that IEPs were never designed to include dealing with resource issues. Stuart explained that IEPs have always detailed what learning should involve and are based on the assumption that the child can access that learning. Stuart remarked that it would be difficult to change the way that IEPs are used.*

*Rosemary Byrne commented that it would be difficult for those parents who could not speak up for themselves to get these services. Rosemary voiced her concern that this would allow Local Authorities to avoid their responsibilities towards them. Rosemary went on to say that those who could not get legal aid would not be able to use their right to appeal, creating inequality of provision.*

*Ian Nisbet replied that legal aid should be available for ASL Tribunals but that this was a very complex area of law and, although his preference would be to see legal aid available, he could understand why it was not. Ian voiced his disappointment with this situation, noting that it would lead to problems with access.*

*David Cameron pointed that in the Draft Bill the role of supporter was linked to the role of independent advocate. David expressed concern that the Advocacy Safeguards Agency had not been cited in the Bill. David observed that the Bill Team have considered hypothetical models of advocacy but that he didn't know what they were.*

*Sunanda Docherty referred to Ian Nisbet's points, saying that legal aid in England is dependent upon each area, which Sunanda thinks will be contested. Sunanda noted that when parents come into contact with Local Authorities to dispute issues, there is already a problem and this makes the Tribunal difficult to begin with, therefore, legal representation is needed by the parents to help them to deal with this situation.*

*Ian Nisbet responded that it remains to be seen how Tribunals will work, but expressed his hopes that, if legal aid wasn't available, Tribunals would allow lay-people and parents to represent themselves. Ian admitted that this was probably lawful, although not necessarily desirable.*

*Eddie Follan noted that Children in Scotland's consultation had raised concerns that the Tribunal would only have jurisdiction over the Education Authority but would have no power to oblige other agencies to provide services. The Executive have said that this will be for Ministers with the relevant portfolio's to discuss. Eddie also voiced concern that children and young people would only receive a CSP if they were in receipt of services from out with the Education Authority.*

*Charlie Gilbert asked Eddie if he had consulted with Local Authorities on this issue to ask them to clarify the situation.*

*Eddie Follan replied that the Scottish Executive had done so.*

*Scott Barrie concluded the discussion by relating to his own past experience of having worked with Record of Needs in the current system, and noting that this system was not effective and the Draft Bill sought to improve this situation.*

**7. A.O.B.**

There was no more business.

**8. Confirmation of date and chair of next meeting:**

Date and time: 1-2 p.m. Thursday 6<sup>th</sup> November 2003

Chair: Rosie Kane MSP

Venue: Quaker Meeting House

Topic: Anti-Social Behaviour