

## Response to Scottish Government Consultation on Progressing Children's Rights in Scotland - An Action Plan 2018-21

September 2018

### Introduction

Shelter Scotland welcomes the opportunity to respond to the consultation on "Progressing Children's Rights in Scotland - An Action Plan 2018-21".

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help. In the last year, 21,000 people came to us for advice and affordability remained the main presenting issue for people in all tenures<sup>1</sup>.

We welcome the ambition to progress the rights of children in Scotland via an action plan. There are several issues around homelessness and social security which currently preclude children from realising their rights as outlined in the UN Convention on the Rights of the Child<sup>2</sup>. A secure home is absolutely central to a child's development and wellbeing and the traumatic upheaval of homelessness is not something a child should have to experience.

Better preventative work, effective interventions and support referral pathways in place at an earlier stage are integral to ensuring that children do not experience homelessness. Where it does happen, more responsive and joined up services are required to minimise its impact. Allocations policies for both temporary and permanent accommodation should also have a greater focus on the needs and views of children.

### Response to High Level Contents of the Action Plan

#### Question 1

**Do you agree that the Action Plan should include:**

**i. Identified strategic actions intended to secure transformational change in how children and young people experience their rights.**

Yes

---

<sup>1</sup> Shelter Scotland (2018); [Shelter Scotland Impact Report 2017/18](#)

<sup>2</sup> United Nations (1990); [The United Nations Convention on the Rights of the Child](#)

**ii.A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles.**

Yes

**iii.A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives.**

Yes

## **Question 2**

**Do you agree that the 4 proposed strategic actions are appropriate and will help to take forward the principles of the UNCRC?**

**i. Development of a dynamic Participation Framework for Children and Young People.**

Yes

**ii. Ambitious delivery, through co-production, of the 3 year children's rights awareness programme.**

Yes

**iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law.**

Yes

**iv. Evaluation of the Children's Rights and Wellbeing Impact Assessment (CRWIA).**

Yes

## **Question 3**

**Are there ways in which the proposed strategic actions listed above could be further strengthened? - please specify.**

Please see response to question 5.

## **Question 4**

**Are there additional or alternative strategic actions that the Scottish Ministers should consider? - please specify.**

Please see response to question 5.

## Question 5

**Are there any specific actions - not currently being progressed within a wider Scottish Government action plan, framework or other initiative, - that should be considered for inclusion within the Action Plan?**

Yes, we strongly feel that children's rights are not being properly recognised or fulfilled in the processes of the homelessness and social security systems and therefore believe that a particular focus on the housing and communities and social security portfolios is key to realising children's rights and should be central to the action plan.

Scotland already has strong existing rights frameworks which should in theory naturally work together to incorporate the spirit of the UNCRC principles, such as the Getting It Right For Every Child (GIRFEC) approach and the Public Sector Equality Duty (PSED) under the Equality Act 2010. However, homelessness is not considered by the relevant bodies under GIRFEC and homelessness does not automatically trigger a wellbeing assessment for a child experiencing it. Additionally, due to the lack of clarity around how the Equality Act considers children in the homelessness system, our advisers have had difficulty advocating for them in this regard. We therefore believe that needs of children are not sufficiently considered in the housing and homelessness systems as the above frameworks do not serve children who are at risk of homelessness or who are homeless.

Through our services, we work with many families in precarious housing situations, and we have seen the numbers of families losing their home in certain localities increase significantly. Social security policies such as the benefit cap have been a contributing factor in many of these cases. Because of this and the growing demand on the system, children are increasingly being housed with their families in poor quality temporary accommodation for prolonged periods of time, while they wait for a suitable affordable home.

Linked to this is the issue of existing domestic legislation around homelessness not being upheld in terms of standards of temporary accommodation provided to homeless households which frequently contain children. In our experience, the Unsuitable Accommodation Order which is meant to protect families from poor quality temporary accommodation is regularly being breached in Edinburgh and families are being allocated inappropriate and sometimes dangerous homeless<sup>3</sup> B&Bs for much longer periods than the law allows.

In effect, these issues mean that many of the children's rights as set out by the UNCRC are consistently not being upheld by the homelessness and social security systems and this must be urgently addressed.

---

<sup>3</sup> "Homeless B&Bs" refer to privately-owned B&Bs which are commissioned by a number of Scottish local authorities to meet demand for temporary accommodation and are then allocated by the local authority to households who have applied as homeless. These B&Bs often do operate as normal tourist accommodation as well, which can lead to homeless households having to leave in high season. In our experience, many of these B&Bs provide extremely poor quality accommodation and service to homeless households.

## How the homelessness system contravenes the rights of the child

This section reflects on the specific UNCRC Articles that we believe are being undermined by the homelessness and social security systems. According to Scottish Government statistics, 14,075 children were in households assessed as homeless or threatened with homelessness in 2017-18<sup>4</sup> and 6,615 children were in temporary accommodation on a snapshot date of 31 March 2018<sup>5</sup>. The number of children in temporary accommodation is the highest in 10 years and households with children tend to spend longer periods of time in temporary accommodation than households without children. These trends indicate that there is not enough action being taken to prevent children and their families becoming homeless. There is also evidence<sup>6</sup> to suggest that often the temporary accommodation being provided threatens the wellbeing, developments and rights of the children in those households, either because of the physical standard or the location i.e. away from school and social networks.

### Article 3 (best interests of the child) & Article 12 (respect for the views of the child)

We believe that the homelessness system contravenes Article 3 in that it largely does not prioritise the best interests or views of the child, especially in areas of high housing pressure. It is widely acknowledged, including within the joint Scottish Government and COSLA Prevention of Homelessness Guidance<sup>7</sup>, that homelessness is traumatic for children and it is in the best interests of the child to prevent homelessness as far as possible and keep the child in a home which meets their needs and is close to education and support networks. If Article 3 was enforced, we would not see families evicted to the degree that they are now or children living in unsuitable accommodation, and we would see a huge reduction in the overall number of children experiencing homelessness.

#### Case study

Shelter Scotland's family support service worked with Family A when they were faced with homelessness due to their landlord serving a Notice to Quit. There are three children in the family and the teenage daughter experiences poor mental health, self-harms, doesn't attend school and has social work involvement while the 4-year-old son is on the autism spectrum and has very complex needs. The mother suffers from depression and relies on support from her mother, but despite all of these issues, the family were allocated temporary accommodation in an area outwith all their supports. This has resulted in the youngest son being unable to attend appointments and now requires home visits from all services. Our family support service has had to fund a taxi for the teenage daughter to resume attending school while living in the temporary accommodation as she cannot use buses due to her mental health. The oldest two children also

<sup>4</sup> Shelter Scotland (2018); [Children experiencing homelessness](#)

<sup>5</sup> Scottish Government (2018); [Homelessness in Scotland 2017-18](#) Table 19

<sup>6</sup> Shelter (2014); [Sick and Tired - The Impact of Temporary Accommodation on the Health of Homeless Families](#)

<sup>7</sup> The Scottish Government and the Convention of Scottish Local Authorities (2009); [Prevention of Homelessness Guidance](#)

sofa surf between their grandmother, friends and the temporary accommodation in order to stay close to networks.

This case clearly demonstrates the lack of consideration for the best interests of the children and the support needs of the whole family.

### **Article 4 (implementation of the Convention)**

We believe that the Scottish Government should take decisive steps to implementing the Convention. By applying the principles of the UNCRC and particularly the Child Rights and Wellbeing Impact Assessment to homelessness services, this would force local authorities to better consider the rights and needs of children in the designing, commissioning and delivering of services, especially in regards to the provision of good quality temporary accommodation.

### **Article 15 (freedom of association) & Article 28 (right to education)**

A key facet of the homelessness system that severely undermines children's rights is that in most local authorities, homeless applicants can be offered and allocated temporary accommodation anywhere in the local authority area. While we know that in most cases, local authorities attempt to keep families as close as possible to the area where they have networks and links, this is not always possible and we have worked with families who have been placed on the other side of the local authority (and sometimes even outwith the area) from where their children attend school, go to sport and activity clubs and above all, where their support networks are. Thus, the homelessness system in many areas is creating a barrier to children's right to associate and to full participation in education. Where it is not possible for homelessness to be avoided, we recommend that children must be temporarily housed in the same or nearby areas which would allow for minimal disruption to their schooling and support networks.

### **Case study**

Family B were allocated a B&B as temporary accommodation when they applied as homeless to their local authority. This B&B was located across the city from where their 5-year-old child's school was and as a result of the distance and the upheaval, their child wasn't attending school.

This experience severely impeded the child's right to education and may have an impact on future attainment.

### **Article 26 (social security)**

Sufficient levels of social security are fundamental to helping families stay in decent accommodation but reforms to social security (particularly the benefit cap) are posing a direct threat to the ability of families and children to stay in their accommodation and avoid homelessness. The first benefit to be affected by the cap is housing benefit, or the housing costs element of Universal Credit if they have transitioned to the new system, which means that households affected by the cap will receive less help with housing costs and are at risk of losing their homes through rent arrears. We have worked with a number of families who have lost their

homes in the private rented sector after being subject to the benefit cap.<sup>8</sup> Given that stable housing is so central to a child's wellbeing, we would argue that it is inappropriate for help with housing costs to be reduced and moreover, given the particularly negative effect that the benefit cap has on families<sup>9</sup>, it should be abolished entirely.

## Case study

Lucy\* is a single mum with four children who is subject to the benefit cap, and as a result only receives £3 in housing benefit per week. She has built up several debts because of this, including payday loans and £5,500 rent arrears. Her private landlord has started eviction action as a result and Lucy has made a homeless application.

Lucy's children have had their right to adequate social security contravened to the point where they are now facing homelessness, which is also likely to negatively impact on their right to education and freedom to associate with friends and family.

*\*Name changed*

## Article 27 (adequate standard of living)

Within the homelessness system, children are often subject to poor quality temporary accommodation and there is no recognised minimum standards for all types of temporary accommodation. We produced guidance to this effect in 2011 jointly with CIH<sup>10</sup> but this guidance is not on a statutory footing. The Scottish Housing Quality Standard sets out the minimum standard that social sector homes in Scotland should achieve but it is not applicable to private B&Bs and hostels, which are often of the poorest quality compared to other temporary accommodation types and are relied upon heavily in local authority areas where there is significant housing pressure.

In principle and according to The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014, families should be protected from bad conditions in all but the most exceptional of circumstances and for a maximum period of seven days. However, we know that the Order is often breached<sup>11</sup> and in some areas, poor quality accommodation is being used as the rule, rather than the exception as it is intended. We have recently worked with a number of families who, due to the lack of supply and being priced out of the private rented sector, have had no option but to apply as homeless and who were allocated homeless B&Bs as temporary accommodation. B&B accommodation is entirely inappropriate for families to be living in but for many families, this is the case for weeks and even months<sup>12</sup>. Among the long list of issues with using B&Bs are dirty mattresses, unhygienic bathrooms shared between residents, poor management, often other very vulnerable clientele in the building, and a lack of basic cooking,

<sup>8</sup> Shelter Scotland (2018); [Shelter Scotland response to the Work and Pensions Committee inquiry on the benefit cap](#)

<sup>9</sup> Chartered Institute of Housing (2016); [The likely impact of the lower benefit cap](#)

<sup>10</sup> Shelter Scotland and CIH (2011); [Temporary Accommodation Guidance](#)

<sup>11</sup> Scottish Government (2018); [Homelessness in Scotland 2017-18](#) Table 30

<sup>12</sup> Shelter Scotland (2018); [Time in Temporary Accommodation](#)

storage and laundry facilities. Finally, an adequate level of social security is key in ensuring an adequate standard of living so this Article is dependent on the fulfilment of Article 26.

## **Case study**

While in the B&B accommodation allocated to them, Family B did not have access to a cooker, fridge or washing machine so could not cook even simple meals for the children. Shelter Scotland advocated on behalf of the family to their local council and was told that the family should use the washing machines at a homelessness centre which was located four miles away from their B&B. The family were paying £488 per week for this one room in a B&B with no facilities.

The children were therefore subjected to living in accommodation which did not meet their basic living needs and contravened their right to an adequate standard of living.

## **Conclusion**

We strongly feel that if an action plan to properly incorporate UNCRC principles into governance processes and particularly around homelessness and social security were to be developed, this would be a positive and decisive step forward in enforcing and progressing children's rights in arenas where they are not currently adequately considered. We feel that this would lead to a wholesale rethinking of the homelessness system and how it affects children and this would force a movement to genuinely preventative work around homelessness and make a significant difference to how evictions are used. Lastly, we believe that embedding these principles would compel local authorities to consider how they provide services and better consider the impact that poor quality services has on the wellbeing of children.

**Contact:** Aoife Deery, Campaigns and Policy Officer, [aoife\\_deery@shelter.org.uk](mailto:aoife_deery@shelter.org.uk)