

## National Carer Organisations response to: Children and Young People (Scotland) Act 2014 – Revised Draft Statutory Guidance for Part 18 (Section 96)

### Questions

1) How clear and easy is the guidance to understand?

Completely  **Mostly**  Somewhat  A little  Not at all

2) With regard to the assessment of wellbeing, within the overall GIRFEC approach, does the guidance make practitioners' roles and responsibilities clear?

Completely  **Mostly**  Somewhat  A little  Not at all

3) Are the definitions provided for the wellbeing indicators (section 6.1) clear and easy to understand?

**Completely**  Mostly  Somewhat  A little  Not at all

4) To what extent do you think that the guidance will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights within the assessment of wellbeing?

Completely  Mostly  **Somewhat**  A little  Not at all

5) Can you outline anything specific that would be helpful to add to this guidance to assist the assessment of wellbeing?

The National Carer Organisations believe that further explanation about how the assessment of wellbeing directly aligns with the UNCRC would be beneficial. The paradigm shift of the UNCRC requires children to be understood and related to as rights-bearing individuals who are partners in their own care, not as passive recipients of adult's decisions in welfare-based approaches. This could be made explicit within the wellbeing guidance document.

Furthermore, where the wellbeing assessment is used with children and young people affected by mental disability, the 'best interests' principle is problematic and raises particular issues for children and young people in the context of UNCRPD (United National Convention on the Rights of Persons with Disabilities). That principle is not precisely determined: there are no tightly defined criteria for determining how the principle should be implemented in general and concerning children and young people with disabilities in particular.

Children and young people with disabilities experience barriers to exercising their rights in addition to those barriers which impact children and young people in general. Disabled children and young people can experience overprotection due to adults' beliefs that, due to impairments, they do not have sufficient mental capacity to make safe or wise decisions. Exercise of individual discretion in 'best interests' decisions must therefore be reduced by providing for review, and accountability, based on agreed standards and guided by the principles of UNCRC. This would ensure representation of children's interests and that decisions are informed by a disability perspective.

The United Nations has required that in all actions concerning disabilities that the best interests of the child or young person shall be a primary consideration. To do this, it is important that the public authorities, professionals, and judicial bodies which apply this concept have values which very closely align with the values of UNCRC and UNCRPD. Making this explicit in the guidance would be welcomed.

It is also important to highlight that different cultures may have varying cultural norms as they relate to wellbeing and that this can be complex when applying universal understandings. It is important that information, guidance, and advice is available to families as well as practitioners. Where mindset, practice and cultural norms do not accord with the guidance, then a constructive and non-judgemental process is paramount.

Moreover, when outlining the eight wellbeing indicators (5.4) the guidance states '*the effects of poverty and social isolation are examples of influences that can have a negatives effect on all the indicators of wellbeing.*' It would be helpful to inappropriate caring responsibilities within this section, as the guidance later refers to young carers specifically. Referring to children and young people with caring responsibilities throughout the guidance will further support practitioners' understandings of how caring roles may impact on the wellbeing of children and young people. This could also be included in section 6.4 '*It will include, but is not limited to, recognising individual, family and community strengths as well as the difficulties such as poverty, health, disability or communication needs, and how these might be met.*'

Section 5.5 refers to barriers to communication that practitioners should consider when involving children and young people in decision making processes. The guidance should go further to outline examples of barriers to participation in decision making processes for children and young people, including lack of child friendly information or

anxiety of service involvement in family life. Further information would be welcome as it would ensure meaningful participation of children and young people.

We were glad to see that the guidance refers to the Carers (Scotland) Act 2016 and notes afforded rights for young carers under this legislation. We believe the guidance would be strengthened if the duty to provide Young Carer Statements was explicitly noted; highlighting that Young Carers Statements sit within a different policy context but should interact with overall assessments of wellbeing.

6) Are there any areas where the further development of resources or guidance would be helpful in supporting the assessment of wellbeing?

No further comment.

## Conclusion

The National Carer Organisations welcome the opportunity to share views on Scottish Government's consultation on revised draft statutory guidance on Assessment of Wellbeing (GIRFEC). Overall, we believe the revised guidance is strong and will be helpful in supporting robust assessments of wellbeing.

Children must be recognised and related to as rights-bearing individuals who are partners in their own care, including young carers and children and young people with disabilities. The guidance could go further to outline barriers to participation for children and young people and how these barriers can be prevented.

The guidance could refer more to young carers throughout, which could support practitioners' understandings of how caring roles may impact on the wellbeing of children and young people with caring responsibilities. Explicitly noting the local authority duty to offer and provide a Young Carers Statement to identified young carers would be welcomed, recognising the wider policy and rights-based landscape affecting young carers.

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The National Carer Organisations are Carers Scotland, Carers Trust Scotland, the Coalition of Carers in Scotland, Crossroads Caring Scotland, MECOPP, Shared Care Scotland, and the Scottish Young Carers Services Alliance.

Together we have a shared vision that all Scotland's unpaid carers will feel valued, included and supported as equal partners in the provision of care. The NCOs aim to achieve this through the representation of unpaid carers and giving them a voice at a national level.

We believe we can deliver more for unpaid carers by working together to share our knowledge and experience, and by focusing our collective efforts on achieving improvements in areas of policy and practice that are of greatest concern to unpaid carers.