

#KeepThePromise



Youth Justice

Autumn 2020

Between 2017 and 2020, the Care Review heard the experiences over 5,500 care experienced infants, children, young people, adults and members of the paid and unpaid workforce had of Scotland's 'care system', and their vision for what needed to change. This vision was set out in ['The Promise'](#) which reflected what was heard and detailed the foundations that Scotland's care for its children and families must be built on:



Voice: Children must be listened to and meaningfully and appropriately involved in decision-making about their care, with all those involved properly listening and responding to what children want and need. There must be a compassionate, caring, decision-making culture focussed on children and those they trust.



Scaffolding: Children, families and the workforce must be supported by a system that is there when it is needed. The scaffolding of help, support and accountability must be ready and responsive when it is required.



Family: Where children are safe in their families and feel loved they must stay – and families must be given support together to nurture that love and overcome the difficulties which get in the way.



Care: Where living with their family is not possible, children must stay with their brothers and sisters where safe to do so and belong to a loving home, staying there for as long as needed.



People: The children that Scotland cares for must be actively supported to develop relationships with people in supported to listen and be compassionate in their decision-making and care.

This series of briefings is intended to help Scotland **#KeepThePromise**, highlighting key areas of alignment between what was heard during the Care Review and mapping those to different sectors, in order to guide and inform planning and implementation. They will also bring into focus the substantial amount of overlap between these areas across all parts of the country's workforce. It is hoped that in doing so, the briefings will support inter-sector, partnership discussions on how to take forward Scotland's Ambition, to make it the best place in the world to grow up.

Each briefing begins with a bullet point summary of the 'headline' themes for the sector. The remainder of the document highlights key sector-relevant themes and sections from The Promise giving the relevant page numbers to help signpost readers.

Briefing Summary

- A new approach to youth justice is needed that holds true to the Kilbrandon principles.
- The rights of children and young people in conflict with the law must be upheld, ensuring they have access to all they need for health, education and participation.
- Children must be able to participate in all decisions about them in appropriate environments- not traditional criminal courts.
- Under 18s are children-There should be no 16 or 17 year olds in YOIs. Being placed in prison like settings is deeply inappropriate for children.
- The importance of relationships cannot be overstated- every effort must be made to nurture and sustain positive and important relationships for care experienced children.
- There must be a significant, ongoing and persistent commitment to ending poverty and mitigating its impacts for Scotland's children, families and communities.
- There must be more universal and intensive support for families who are struggling, whatever issues they face.
- Scotland must improve support for children affected by parental imprisonment, ensuring wraparound support for families.
- More must be done to avoid imprisoning pregnant mothers, and better support to those who are in prison.

A new approach to youth justice is needed

- p.71** In order to ensure that care experienced children are fully included and supported, schools in Scotland must have a clear understanding of the rights of children and how to uphold them. All children, whatever their educational setting, must learn about their rights in a developmentally appropriate way.
- p.91** There is no evidence that care experienced children engage in more offending behaviour than their peers, but the consequences of their behaviour whilst in care are much more likely to result in criminalisation. It is the settings of care and workforce responses to behaviour that drives the criminalisation of care experienced children. Scotland must stop that criminalisation by supporting the workforce to behave and treat children in a way that is relational rather than procedural and process driven.
- p.89** Care experienced children and young adults, particularly in residential care, told the Care Review about how they had too often had police involvement for behaviour that other families would accommodate within the family. There is evidence that care experienced children are over represented in the youth criminal justice system. There are a number of things that need to happen to change that but, overall, Scotland needs to do more to prevent the criminalisation of all children.
- p.89** The principles that underpin The Children’s Hearing System, that children who engage in offending need care and protection rather than punishment, must be restated and understood across Scotland’s services. The impact of early criminalisation is life long and can make it profoundly difficult for young people to access future opportunities.
- p.41** Whilst working to prevent the criminalisation of children, Scotland must develop a more progressive, rights based youth justice approach that builds on the Kilbrandon principles and makes them a reality for all.
- p.80** Secure care – There must be absolute clarity that the underlying principle of Secure Care is the provision of therapeutic, trauma informed support. Being placed in prison like settings is deeply inappropriate for children.
- p. 81** There must be far more alternatives for community based support and monitoring.
- p. 82** Use of Secure Care – The planning and provision of Secure Care must reflect the needs of children in Scotland to ensure there are sufficient places for those that need them.
- p. 85** Restraint – Scotland must strive to become a nation that does not restrain its children.
- p.110** Scotland must stop selling care placements to Local Authorities outside of Scotland.
- p.91** To ensure that all children are diverted from the criminal justice system, Scotland must aim for the age of minimum criminal responsibility to be brought in line with the most progressive global Governments alongside efforts to prevent criminalisation of all children.

The rights of children and young people must be upheld

- p.41** Scotland must consider how to ensure that children have the totality of their cases dealt with in an environment that upholds their rights and allows them to effectively participate in proceedings. Traditional criminal courts are not settings in which children's rights can be upheld and where they can be heard.
- p. 26** Scotland must respect, uphold, champion and defend the rights of children and recognise that their rights are most often realised through relationships with loving, attentive caregivers. Scotland must fully incorporate and uphold the UNCRC...in a way that does not reinforce a focus on policy, process and procedure but supports the ability of children and those around them to connect and develop relationships and cultures that uphold their rights as a matter of course.
- p. 83** Upholding Children's Rights in Secure Care – Secure Care must uphold children's rights. Children must have access to all they need for health, education and participation. They must be supported to maintain good contact with their family if safe to do so.

Children must be able to participate in all decisions about them

- p. 31** Care experienced children and young adults must have ownership over their own stories and personal data so that they can understand and influence how their stories are shared.
- p. 35** Scotland must be committed to the development of digital tools that incorporate the principle of information ownership. These digital tools must operate at a scale that allows care experienced children and young adults to have control over their information and how it is shared.
- p. 36** Scotland must acknowledge that it is the culture surrounding information sharing that has the biggest impact on protecting children.
- p.116** Legal Representation – Scotland must consider the creation of an accredited legal specialism to set standards for legal professionals representing children.
- p.53** Parents in the criminal justice system-The needs, views and rights of children must be taken into account as part of sentencing decisions. Failure to do that means that criminal courts do not have a holistic view of the impact of imprisonment.

Under 18s are children- there should be no 16 or 17 year olds in YOIs

- p.91** How Scotland responds to children who have been criminalised must also change. Scotland must stop locking up children who have often experienced the failures of the state in the provision of their care.
- p.41** For a variety of reasons care experienced children are disproportionately criminalised. Scotland must do more to avoid that criminalisation but, when children are before the courts on offence grounds, they must be dealt with in a way that is appropriate, proportionate, recognises their age and is trauma informed and responsive.
- p. 91** Young Offenders Institutions are not appropriate places for children and only serve to perpetuate the pain that many of them have experienced. There are times where it is right for children to have their liberty restricted, but that must only be done when other options have been fully explored and for the shortest time possible and in small, secure, safe, trauma informed environments that uphold the totality of their rights.
- p.82** Scotland must recognise that 16 and 17 year olds are children in line with the UNCRC and must be accommodated within Secure Care rather than within Young Offenders Institutes and the prison estate. This must include children who are on remand and those who have been sentenced. Being placed in prison like settings is deeply inappropriate for children.
- p.82** Ensuring that all 16 and 17 year olds are placed in Secure Care rather than a Young Offenders Institute will change the nature and provision of Secure Care. There must be

careful planning around the type of provision required to cater to the diverse needs of the population requiring that care.

- p.82** If a young person turns 18 during their time in Secure Care, there must not be an automatic transfer to a Young Offenders Institute. There must be more scope to remain in Secure Care for those who have turned 18. Any young person who is 'looked after' and is in Secure Care and turns 18, must retain social work support and be able to access through care and continuing care provisions upon leaving Secure Care.

Safe and caring relationships must be prioritised

- p.104** People and Risk – Scotland must support the workforce to contribute to a broader understanding of risk. Scotland must understand, through its people and structures, the risk of children not having loving supportive relationships and regular childhood and teenage experiences.
- p. 91** Scotland must stop the criminalisation of care experienced children by supporting the workforce to behave and treat children in a way that is relational rather than procedural and process driven.
- p.91** The workforce must be safe and protected in carrying out their work, but they must be supported to ensure that their responses to the children in their care mirror the tolerance and understanding of a good parent. That involves workforce understanding of self, nurture, support and leadership that models expected behaviour

Poverty must be addressed

- p. 18** Poverty - There must be significant, ongoing and persistent commitment to ending poverty and mitigating its impacts for Scotland's children, families and communities.
- p.47** The Care Review has not been able to ignore the impact of poverty on families and communities across Scotland. There is significant evidence that social and economic inequalities, particularly poverty and debt, increase the stressors in families and communities. Poverty can make parenting more difficult.
- p.47** When poverty is combined with other issues such as mental health problems, domestic abuse or substance use, the challenges of parenting can be magnified. Families struggling to cope with poverty, poor housing, substance use and health difficulties may have little capacity to engage with services in order to make changes.

There must be more support for families

- p.46** Scotland's commitment to early intervention and prevention must be realised through proper, holistic support for families. There must be a significant upscale in universal family support services.
- p.55** Whatever issues families face, Scotland must ensure that intensive family support is available, proactive and characterised by the **10 family support principles**.
- p.54** There is significant research on the pervasive impact and relationship between substance use, mental health difficulties, domestic abuse and likelihood of children being removed from the care of their parents. Families experiencing these issues must be supported with flexible, creative services and relationships.
- p.54** Failures in adult services have a profound impact on the ability of children to have fulfilling childhoods. Fundamentally there must be a shared language of care and approach between services and professionals so that families are not navigating between competing standards and expectations.

Scotland must improve support for children affected by parental imprisonment

- p.53** The Care Review has heard stories of a complete failure of planning and support for the children of parents facing imprisonment, leading to children being abandoned or going to an inappropriate place.
- p.53** Scotland must do all it can to prevent the imprisonment (either on remand or as part of a sentence) of those with parenting responsibility and progress the presumption against short custodial sentences.
- p.53** If parental imprisonment takes place there must be wraparound support for the family, with planning for the likelihood of imprisonment and clear support for children who are impacted. Parents facing imprisonment must be supported to make plans for their children and everything must be done to avoid emergency removal and a panicked response.
- p.53** Scotland must do more to ensure that children's experience of a parent being in prison is as supportive as possible. There must be no reporting of anything that will identify or stigmatise the children and families of people who offend.

- p.53** Scotland must reduce the worry for children of imprisoned parents so that the experience of prison visiting is as positive and non-stigmatising as possible. Where it is safe to do so, the relationship between child and parent must be supported.
- p.53** Scotland must do all it can to avoid the imprisonment of pregnant mothers. For mothers who are in prison at the time of giving birth, there must be support for them to care for and remain with their babies for as long as possible where it is safe to do so. They must be fully involved in all decisions about their baby and be given all the support they need to nurture. Support must follow them when they leave prison so there is a smooth transition of care.

#KeepThePromise

'The Promise' outlines an approach to family and to care that will mean that Scotland can truly be 'the best place in the world to grow up.' To achieve that, there is considerable work to be done.

This series of briefings is intended to support your organisation in thinking about what it means to #KeepThePromise. It should be used to help you to align organisational policies, strategies and practices with what the Care Review heard, and to identify what changes can be made to those, both now and in the future. The Care Review made clear that it is simply not possible to isolate any one aspect of the system. Therefore, these sector briefings should also help organisations understand who else they need to work with in order to make change happen.

To realise the ambitious scale and extent of change, The Promise Team will need the ongoing input and views of all those with responsibility. Please look at the #KeepThePromise **engagement document** to help you think about the work of change.

The Promise website will be regularly updated with information and resources.

For more information about what the Care Review heard about youth justice see the **Evidence Framework**.



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