

# SAFE

SCCYP!

Scotland's  
Commissioner  
for Children and  
Young People



# ACTIVE

# HAPPY



**SCCYP'S**  
Policy  
Priorities  
May 2006 to  
April 2009



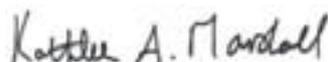


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## Foreword

“Safe, Active, Happy” was the name given to the Action Plan I launched at an event at the Scottish Parliament on 4 May 2006. It was the product of two separate consultations on the policy priorities my office should adopt. The Commissioner for Children and Young People (Scotland) Act 2003 requires me to consult with children and young people, and agencies working with and for them, about the work my office should take on. The Action Plan set out the broad themes that we intended to pursue. However, my office (known as SCCYP) is intended to give added value to the work of other agencies in Scotland, so it was important to make sure that we focused our efforts on things others were not doing, or would find it difficult to do, as well as supporting relevant work that these others were doing themselves. We therefore held a full day meeting to brainstorm with our stakeholders about how SCCYP could most effectively pursue this agenda. This resulted in the identification of a number of workstreams that are discussed in this report. The first year of the Action Plan involved mapping out those workstreams and concluded with identification of more concrete objectives that were pursued over the ensuing 18 months.

I would like to take this opportunity to thank all of the partners who have helped us through this process, especially the members of the Safe, Active, Happy Advisory Group. I would like to thank my staff for their energy and forbearance, and Maire McCormack, Head of Policy at SCCYP, for drawing together this report.



**Kathleen Marshall**  
**Scotland's Commissioner for Children and Young People**

**April 2009**

## **Background to Safe, Active, Happy**

In October 2005 I launched a national consultation with children and young people to find out what they would most like changed to make their lives better. With almost 16,000 votes cast, they told me that their top priority was 'Things to Do' – activities that are affordable and accessible to all, and that are designed by young people themselves in co-operation with trusted adults. Following a consultation with the organisations working with and for children and young people. I decided to work on a complementary priority of trying to find a better balance between child protection, fun, adventure and healthy relationships. We referred to this as 'Promoting Proportionate Protection'.

Because there were common themes in both priorities I decided to take them both together and focused the office's attention on trying to make Scotland a "Safe, Active, Happy" place for children and young people. The initial Safe, Active, Happy workplan was intended to last for two years, but because of the enormous task we had set ourselves, I decided to extend it.

This short report does not go into the detail of project planning, nor does it attempt to evaluate this piece of work, an exercise which was undertaken by external consultants and is available on request. It simply provides an overview of the work carried out, highlighting key activities and events. It also draws attention to the many organisations SCCYP has worked with over this period as well as the tremendous amount of support given to my office from a variety of sources. This workplan would not have progressed in the way that it did without the commitment of my team and the very valuable help and guidance provided by members of my Safe, Active, Happy Advisory Group.

In my approach to Safe, Active, Happy, I have always stressed that a key part of my role was to provide added value where appropriate - to support agencies working with and for children and young people on issues that they are leading on. I tried to do this by bringing like-minded (or sometimes disparate) groups together, adding my name to petitions, raising questions to a Minister or simply speaking at events. This was my approach to the workstreams on play and that on children affected by parental substance and alcohol misuse. Other workstreams such as the one on moving and handling of disabled children or work around the age of leaving care in Scotland were very much led by my office whereas on others still, such as anonymity before conviction, I felt that my job was to open the debate and provide a forum for discussion.

I was also very conscious of the fact that children with disabilities and those in the looked after system were disproportionately affected by the 'Things to Do' (or lack of) and the PPP agenda, so I make no apologies for spending a considerable amount of time trying to focus on the issues that mattered to them.

This is therefore but a snapshot of the work my office has been doing since it launched its policy priorities. Other work, which will be explained more fully in my annual report, will include promoting the participation of children and young people through various activities and in partnership with our three standing groups of young people (Reference Group, Care Action Group and Young People's Health Advisory Group). Our contact with younger children has focused largely on our partnership with the Children's Parliament. A great deal of effort has been invested in responding to Government and Parliament consultations. We also undertook a major piece of work on prisoners' children and published an internationally applauded children's rights impact assessment. My office co-ordinated the preparation and submission of a joint report by all four UK Children's Commissioners to the UN Committee on the Rights of the Child to assist their periodic scrutiny of progress in implementing the UNCRC.

## How did SCCYP take Safe, Active, Happy forward?

In the first year of the policy priorities we:

- Identified 10 workstreams which would help us to take forward the action plan. Each had a project manager who tracked activities, and assessed the implementation and progress of the relevant workstream
- Set up an advisory group comprising representation from key agencies working with and for children and young people which oversaw implementation of the SAH workplan
- Provided quarterly updates on the progress of the workstreams
- Commissioned research to provide robust evidence to support our arguments on a number of workstreams
- Commissioned an evaluation of the SAH workplan
- Set up a Safe, Active, Happy section on the SCCYP website
- Set up a wider forum of interested agencies

We:

Year 1: Mapped out the issues and set out our aims and objectives

Year 2: Identified solutions

Year 3: Disseminated results and evaluated impact

## The Safe, Active, Happy Advisory Group

### Terms of Reference

The Safe, Active, Happy Advisory Group met four times a year in Edinburgh over two and a half years, as a network of partners who acted as a sounding board during the lifetime of the policy priorities.

The Group:

- Received quarterly reports from SCCYP on the implementation of the workplan
- Considered and measured progress against the workplan
- Provided advice and guidance on the future direction of activities

I chaired the meetings and agendas were prepared by my office. Prior to each meeting, the group received a note of recent activity and verbal reports were also provided.

## Members of the Advisory Group

- Detective Chief Superintendent John Carnochan, Strathclyde Violence Reduction Unit
- Alex Cole – Hamilton, Fairbridge/Youth Link (and from April 2008 Aberlour)
- Marguerite Hunter Blair, Play Scotland
- Ravi Joshi, Scottish Youth Parliament (until end 2007)
- Marcus Liddle, Young Scot (until end 2007) and replaced by Kelly Chambers (from 2008)
- Paul Meighan, Angus Council (until end 2007)
- Ian Milligan, Scottish Institute for Residential Child Care (SIRCC)
- Anne Stafford, Centre for Learning in Child Protection, Edinburgh University (CLICP)

## The Detective Kit

### Background

During the national consultation my office was told by children and young people that there was a lack of things to do in their area. They pointed to a number of reasons as to why this was the case; that activities were too expensive, that they couldn't get adults to run them, that community play equipment was being removed because it didn't conform to health and safety requirements and that there was limited information about what was available.

I decided we needed to find out more. Following discussions with our Reference Group,(a group of 12 young people aged between 14 and 21) my office developed a classroom resource for children and young people. The group felt that this resource should be focused on primary school children as the material was more suited to this age group.

The objectives were:

- To gain an insight from the perspective of children and young people of the 'things to do' during out of school hours within each local authority in Scotland;
- To gain an insight from the perspective of children and young people of the barriers faced when accessing 'things to do' during out of school hours within each local authority in Scotland;
- To share innovative ideas or good practice 'things to do' across Scotland;
- To raise awareness of SCCYP and the UNCRC.

### What did SCCYP do?

The Reference Group provided a steer on the initial ideas for the content and how best to engage with the older age group. On the basis of their feedback my office developed a web based resource pack and called it the 'Detective Kit'. The resource consisted of a workbook for pupils designed to take them through a range of activities exploring 'things to do' near them. Enclosed with the kits were a giant poster and stickers. Children were asked to work together and use the poster to create a map of their local community, to find out what there was in their area, what there was a lack of, and what they can do to change things. They were asked to mark out the Top Five:

- Things to Do
- Barriers to Things to Do
- Things to Do for Free
- Wish List of Things to Do

We also asked them to compare the situation to "the olden days" by asking parents, grandparents what there was to do then and we encouraged them to take this forward, for example by organising an exhibition and inviting MSPs to attend/by lobbying local councillors. A fun element was introduced into the packs with tasks such as word searches, crosswords and puzzles, providing passwords to access further information from the interactive website which had information on the UNCRC and SCCYP.

All schools were asked to return these posters and the information from them was logged to build up a geographical picture of the 'things to do' that are most important to children across Scotland, as well as what children perceive to be the barriers to accessing activities locally.

SCCYP piloted the Detective Kit in January 2008 in Craigour Park Primary, the Pavilion Mini/Sunshine after-school club and Corseford School (which provides specialist education for children and young people with disabilities). It was then launched at the Leadership in Scotland's Primary Schools Conference in February 2008. The initial mail out went to 10 schools, followed by a second wave of promotion which included a personal letter from the Commissioner to each Director of Education, followed by a more general leaflet and letter to the 2500 primary schools in Scotland.

In total, during the period when the project was active, over 16,000 kits were issued to 400 schools and other organisations in Scotland. Those receiving packs were invited to work through the resource in the classroom and to send in findings to SCCYP.

All schools which sent returns were sent a certificate for participating. The top three schools were also awarded prizes based on effort and engagement, individuality and insight, and overall quality. The website traffic was also pleasing and at peak times reached about 1270 hits per hour with the interactive element which linked to the resource book, proving the most popular.

The data from all the Detective Kits received was analysed and a summary report prepared. In total, 2,364 completed Detective Kits were received from 27 local authority areas. In January 2008 courtesy letters were then sent to all schools who submitted kits informing them of the results of the competition and I visited the top three schools in March 2009 to award prizes. SCCYP also wrote similar update letters to schools that requested packs but did not send in any returns.

Because over 16,000 kits were issued but only 2500 kits were returned, I was keen to ascertain what happened to the other packs so a letter was sent, along with a feedback form to all schools to ask their views of the Detective Kit resource. I also wanted to identify any differences in responses between schools sending returns and those who requested packs but did not send in returns to SCCYP. The feedback asked:

- Has the school used the pack in the classroom(s)?
- What worked well and why?
- What didn't work and why not?
- How successful has the Detective Kit pack been? (e.g. children's engagement with the pack in the classroom, the witness statement activity, and more generally as a classroom resource)
- Has the Detective Kit activity raised awareness of SCCYP? Amongst staff? Amongst children?
- Would the school use the pack again? If so, how would you use the pack in the future?
- Following on from the Detective Kit project in the classroom, has there been any follow-up work done at the local level about 'things to do'?

Most schools have given positive feedback. We have received a fairly low response to this exercise but this is not unexpected given that some time has elapsed since the Detective Kits were sent out. Preliminary findings show that:

- Over 70 schools have responded to date. The majority of these were ones that had sent in returns;
- Overall the feedback comments were very positive about the Detective Kit resource. For example, the majority rated different aspects of the resource (e.g. the cartoons, the map and stickers, the range of tasks, age appropriate material, the educational content, the language style, its fun element) with 4s or 5s; and
- There are indications in some school responses that Detective Kit findings have been followed up at local level with meetings with local councillors, organisations and MSPs.

## **Yes Ball Games**

### **Background**

As part of our work on 'things to do', my office worked with Streetwork UK to develop plans for a participative project to involve young people in the issue surrounding 'No Ball Games' signs. Streetwork UK had just embarked on a three year project in East Craigs, Edinburgh to promote the rights of young people in that area. We worked in partnership with them in August and September 2008 to develop and implement a six week workplan aiming to consult with young people, raise their awareness of the issue and gain their views and experiences. It was envisaged that a group of 6-8 young people interested in the issue could then work on a participation project. This would involve activities such as interviewing local adults, taking photos of the local area, comparing the present use of public space to the past. The project work would then be showcased at an event where key community stakeholders and decision makers would be invited. This would provide the young people with the opportunity to engage with decision makers with a view to raising the issue and having it addressed. It was intended that the activities and workplan would be written up and disseminated via the SCCYP website for other workers and organisations to carry out similar work in their area.

### **What did SCCYP do?**

A SCCYP member of staff shadowed Streetwork workers in East Craigs during August and September 2008 to kick start this project. Feedback from young people led us to change the name of the project from "No Ball Games" to "Yes Ball Games". However, it was difficult to engage with the target age group (12-14 years). Streetwork were at the early stages of their project and it can take up to six months to reach this age group through a streetwork approach. We did manage to engage with a younger age group (8-10 years) however the issue was not as pertinent to them and the interest to get involved further never materialised. We decided to take stock, identify our learning points and scale down and re-orient the project. As a result, SCCYP staff have devised a game for the forthcoming young people's website which presents the issues in an engaging and informative way. We are also hoping to put it on a number of independent (and appropriate) online games sites where it will be used to direct young people to our new site.

Through this work my office was able to gather broad views from a younger age group which informed the project. In addition, staff members were able to raise awareness of the issue at a local level and raise awareness of SCCYP. Finally, members of our participation team developed skills and experience in short term engagement with marginalised children and young people.

## Moving and Handling

### Background

Since taking up office in 2004, my office has heard from a number of children and young people with disabilities and their parents about the impact of moving and handling on their day to day lives. The children described feeling embarrassed, humiliated, undignified and excluded because of moving and handling difficulties. They said that they were prevented from taking full part in school activities or unable to enjoy extra-curricular or other leisure activities.

Children and young people and their parents often attribute those difficulties to attempts to avert all risk and to protect workers providing moving and handling assistance, without having regard to the needs and wishes of the young person. At the same time, workers told SCCYP they feel unable to deliver the service they would like as they feel constrained by what they see as inflexible regulations and a lack of support and resources.

### Case study

*A young person attending a mainstream school reported that her care assistants refused to adjust her position in her wheelchair. They claimed health and safety legislation prevented them from lifting her. The young person was left feeling uncomfortable and unable to concentrate during class. She resorted to asking her father to come into school to adjust her.*

### What is 'moving and handling'?

'Moving and handling' refers to any activity that involves supporting, lifting, putting down, pushing, pulling, carrying or moving a child or young person. Such activities may be carried out by hand or by bodily force, or in conjunction with handling equipment (such as a hoist).

Examples of moving and handling activities, or 'manual handling' as it is also described, include:

- transferring a child from a wheelchair to the toilet;
- repositioning a child in bed;
- lowering a child from a chair to a floormat;
- lifting a child on to a changing plinth; or
- hoisting a child into the bath.

While some children and young people with disabilities require minimal physical assistance, others require assistance for all moves, sometimes needing more than one carer's help. Moving and handling takes place wherever the child goes: at home, in school, during leisure activities, on holiday etc. Moving and handling can be carried out by a range of people including learning assistants, social care workers, nurses, as well as the child's own parents.

### What did SCCYP do?

After being contacted by several children and young people and their parents about moving and handling difficulties, it became clear that these were not isolated cases but were representative of widespread confusion and uncertainty about moving and handling law, policy and practice.

I decided to find out more about people's experiences of moving and handling. My office carried out a series of focus groups and one-to-one interviews with children and young people and with parents. We also held focus groups with professionals to get their views on moving and handling.

My office also reviewed law and policy on moving and handling. This was particularly important as moving and handling is set within a complex legal and policy framework. This framework encompasses domestic, European and international law and covers subjects such as health and safety, children's rights, the provision of children's services and disability discrimination.

To find out how this law and policy was being put into practice, SCCYP then carried out a survey of all 32 local authorities in Scotland. They were asked about their moving and

handling policies, training for staff, risk assessments, user-involvement, complaints procedures, and what barriers they felt existed to good practice.

### **The report**

The results of all our research were brought together in the report, 'Handle With Care', along with recommendations to improve moving and handling practice. My office also produced 'Dignity In Practice', a short film featuring children and young people, parents and carers talking about their experiences of moving and handling.

### **What did SCCYP find?**

SCCYP's research showed that moving and handling issues can cause significant disruption to the lives of children and young people and their families. Poor practice may result in breaches of children's rights, is detrimental to their welfare and limits their enjoyment of life. Our research also showed that good practice is possible and is already happening in some areas. Where this is the case, practitioners providing moving and handling assistance contribute to children's physical and emotional welfare, helping to maximise their mobility and independence.

'Handle With Care' was laid before the Scottish Parliament in accordance with SCCYP's statutory powers on 27th February 2008. The report was also launched at the Parliament at an event hosted by Bill Kidd MSP and chaired by Karen Sutherland, a member of the Reference Group. Karen had also taken part in one of the moving and handling focus groups, and was involved in the production of the moving and handling film, the design of the final report and in media work around the launch of the report.

Since publishing the report, SCCYP has promoted the recommendations to the Scottish Government, MSPs, local authorities and practitioners. The Government's response was positive. When asked about SCCYP's work, the Minister for Children and Early Years, Adam Ingram addressed the Parliament and said:

*"The Scottish Government welcomes the "Handle with Care" report from Scotland's Commissioner for Children and Young People and in particular its emphasis on consultation, dignity and positivity. As with all issues and challenges faced by children and young people with disabilities, a coherent approach is required to moving and handling. We will develop an approach that covers practice in health, education, social work and other relevant sectors and that takes stock of the recommendations in "Handle with Care" as well as the views and feelings of children and young people and their families... We will revise... guidance in the light of the Commissioner's report... We will involve parents and children in the revision process."*

### **Next steps**

SCCYP continues to promote and disseminate the work on moving and handling. My office is working with the Government, service providers and practitioners to implement our recommendations and encourage good practice. There are also plans to produce an information leaflet about moving and handling for children and young people and their parents.

The report and the DVD are being used in training both in Scotland and across the UK my office continues to receive excellent feedback from practitioners about how useful this is.

## Hoists and Slings

### Background

As part of the 'Handle With Care' report, many young people told SCCYP that sometimes the use of hoists and slings were incompatible from one setting to another. For example, there can be a difference between home and a respite setting; between one local authority and another or even within different settings

*We were using the same sling on two different type of hoists, We had done this for a while and had no problems, However it was brought to our attention that hoist X had to be used with sling Y and hoist Y had to be used with sling Y. Even though we had used hoists X and Y and had no problems we were now told we could no longer do this. Now I fully appreciate no wants to be sued or flamed, or most of all, for my son to be hurt, but I don't think they realise how hard it can make things for families.  
(Parent)*

The 'Handle With Care' report recommends that consideration should be given to the compatibility of hoists and slings and other mobility equipment, either through agreement with manufacturers or through purchasing decisions through Scottish agencies.

### What did SCCYP do?

I commissioned Glasgow Caledonian University to undertake some research. They are currently gathering information about current practice throughout Scotland with the aim of understanding why such variation occurs and to consider ways of taking the issue forward.

The research will gather:

- Information about which hoist and sling suppliers are purchased and provided, and by whom;
- The rationale behind where provisions are actually in place and those of equipment procurement;
- Suggested ways of taking the issue forward.

The broad aims were:

- To determine the types of equipment purchased, the purchasing systems in place and rationale(s) for purchasing decisions;
- To investigate the characteristics of the organisational in-house assessors for hoists and suitability, the training and documentation available to them, and the assessment criteria considered when carrying out an initial hoist and sling assessment;
- To establish the type of instruction, training and support available in the organisation for hoist/sling users and individuals who wish to purchase equipment themselves.

The report is expected by the end of April 2009. This will highlight key issues and raise any matters of concern as well as making recommendations on how to take forward issues raised. SCCYP hope to work with the Scottish Government in taking these recommendations forward.

## Leaving Care

### Background

One of the things my office has been working on for the last few years is the issue of the age of leaving care and the impact that leaving care too early has on vulnerable young people. The issue was raised on numerous occasions both by professionals and by young people. It was also something my office identified as important by monitoring calls to our enquiries helpline. We were repeatedly told that young people feel under pressure to leave the care system at 16 years of age and often move to inappropriate accommodation and unsuitable placements, despite policies which recommend that this does not happen.

### What did SCCYP do?

I decided we would conduct a research project to look into the subject in more depth. The aims were:

- To assess the age at which young people leave the care system, in relation to law, policy and practice;
- To research children and young people's experiences and expectations of leaving the care system;
- To compare policy and practice and;
- To increase agencies' and young people's awareness of advocacy services when leaving care.

Initially, a letter was sent to all local authorities in Scotland, asking for information about their policies, procedures and experiences in relation to the age for leaving care. We received a reply from all authorities; some provided a short letter; others provided documents and examples of specific policies. The responses were analysed to provide an overview and a framework for further exploration.

As well as gathering information and opinions from local authority managers, SCCYP also gave young people and front-line workers an opportunity to contribute to the report and to tell their story. The selection was not done on the basis of a random sample; rather it depended on access by gatekeepers, availability of workers and young people and the amount of time available to carry out the work.

The main priority was to give as many people as possible an opportunity to share their experiences. Therefore, we were open about the way they communicated with us. My office were overwhelmed by requests to talk to people face to face, and had to supplement one to one interviews and focus groups with paper questionnaires in some areas. Staff also conducted telephone interviews and attended forum meetings.

My office talked to young people and workers in 13 different local authorities. (A total of 85 people: 54 young people and 31 workers. Half of the young people were in care and half had left care). We also conducted more extensive work in two areas (The Western Isles and Highland). This involved more face to face meetings with representatives of those authorities on an on-going basis. As the sample was not random, this was not a 'representative' selection in the scientific sense.

The aim of the report was not to 'name and shame' particular local authorities. Neither does it attempt to create a kind of league table of areas where practice is good or bad. There were several places where we did not conduct any fieldwork, and it is possible that some of the best and worst practice has not been drawn to our attention. However, I am confident that the report achieved its intention to highlight some of the facts, the common issues and barriers faced by practitioners and the variety of practice to be found across Scotland, leading to the conclusion that the situation nationally is far from acceptable.

In the process of researching and writing the report, it became apparent that the main issues on the ground are to do with putting policy into practice. Of course, there may be barriers in terms of practical issues which could be remedied by a change in the law; but the majority of issues relate to organisational culture.

### **Information Leaflet**

It became clear that too many workers and young people lacked accurate information about what young people were entitled to and should expect. So, as part of this project, SCCYP worked with Who Cares? Scotland to produce a leaflet on young people's rights when leaving care 'Think Before You Move'. Although addressed to young people, this leaflet was also designed to help workers. I hope that it will be used to give young people in care a national resource with consistent messages which they can refer to when going through the care process and when they do not feel they are receiving adequate services. It can also be used to inform workers, guardians and staff about what support young people should be receiving and go some way to clear up myths such as having to leave at 16 and will help combat the culture of leaving care at 16. The leaflet has been extremely popular with around 7500 requested and disseminated to date.

### **The report**

The report, 'Sweet 16? The Age of Leaving Care in Scotland' was laid before Parliament on 25th March 2008 and celebrated at a launch event in Glasgow on 26<sup>th</sup> March. A debate in the Scottish Parliament was secured by Karen Whitefield MSP on June 25th 2008. Some of the young people involved in the report, along with young people from Aberlour directly affected by the issues, came to the Parliament to hear the debate and spoke to MSPs and Ministers after the proceedings.

The report discovered how, despite Government intentions to the contrary, eight times as many young people in Scotland leave care at 16 than at 18. The report explored the reasons why young people are leaving care so early and challenged both the culture of leaving care at 16 and the standard of much of the accommodation and support provided after they leave. There were a total of 23 recommendations in the report. Some are aimed at Government, some at local authorities and others at practitioners. The recommendations aimed to:

- Encourage strong action to change the culture that assumes 16 as the age for leaving care;
- Ensure workers are trained and informed about young people's rights and are able to pass this information to young people;
- Increase awareness of the reasons why young people leave care early so these can be tackled;
- Encourage the provision of more semi-independent living units;
- Prohibit the use of Bed and Breakfast establishments and homeless hostels as accommodation for care leavers;
- Help local authorities to fulfil their obligation to care leavers by requiring Registered Social Landlords to co-operate with them;
- Encourage elected members of local authorities to enquire into leaving care arrangements as part of their corporate parenting role;
- Remove barriers to young people returning to their former place of care for overnight stays;
- Encourage the Scottish Government to consider amending the legal threshold for aftercare; and
- Ensure that additional statistics are gathered to help monitor what is happening.

Local authorities have been encouraged to examine their own practice in the light of the report and to consider also the good practice examples that are included, as a possible model for future action. Elected members, at local and national level have also been encouraged to ask questions about the age of leaving care in their areas and arrangements for care leavers. SCCYP has also encouraged the Scottish Government to follow through its outcomes-based approach with a strong commitment to monitoring outcomes for these young people.

SCCYP staff have also spoken at numerous events since the launch of the report, including the launch of the corporate parenting pack 'These are our Bairns: A guide for community planning partnerships on being a good parent' (September 2008) and the Scottish Throughcare and Aftercare Forum meeting with Throughcare and Aftercare Managers in October 2008.

## Other activities

### Letter to the Minister

I wrote to Adam Ingram, Minister for Children and Early Years in December 2008 on more specific issues. One for example focused on returning to care using Section 25 of the Children (Scotland ) Act 1995. S 25 provides a route for re-entry into the care system where that is appropriate. It imposes a duty on local authorities to provide accommodation for a young person in certain circumstances, and a power to do so where those criteria are not met. A young person under 19 should be under 18 who is accommodated under S 25 would become formally “looked after” by the local authority. The response from the Minister was supportive and noted that local authorities were reminded of the legal framework in May 2007 and that his officials are *“continuing to visit local authorities to discuss how we can, together, improve outcomes for looked after children and young people and care leavers. In light of your letter, (I) have asked them to raise the use of S 25 as a potential aid in this regard.”*

### Sweet 16? Newsletter

To maintain awareness of the report, update stakeholders and encourage feedback, (particularly from care leavers) SCCYP produced a newsletter in January 2009 and circulated to all the key stakeholders. This highlighted:

- How and to whom the report had been circulated
- Recent parliamentary activity including debates, parliamentary questions etc
- Details of Government responses to the SCCYP recommendations
- An overview of the ‘Sweet 16’ recommendations
- A request for feedback on how the report is being used

### Local Authority Survey

In January 2009, I circulated a questionnaire to local authorities to help identify progress on the issues raised in the ‘Sweet 16?’ report and also what more needed to be done. Responses were received from all 32 local authorities. They were asked about:

- Action to promote the corporate responsibility of elected members and housing services;
- Social work and education collaboration on the funding of residential school placements;
- Steps taken with staff to promote 18 instead of 16 as the age for leaving care;
- Action to provide better/ more appropriate accommodation for care leavers;
- Action to stop care leavers having to be declared “homeless” to get priority housing allocation;
- Action to help young people come back into care for short periods of support; and
- Information on numbers of care leavers discharged into B&B and hostels for the homeless in the current financial year.

### Sweet 16? anniversary report

I wanted to get a clearer picture of whether things had changed since the laying of Sweet 16? in March 2008. I was conscious that in our busy world, when there are so many pressing issues, compassion and concern do not always translate into effective action. A follow up report ‘Sweet 16: One Year On- Is life any sweeter?’ was published and laid before Parliament on 25<sup>th</sup> March 2009. This was informed by the survey of local authorities and showed that although some progress had been made, more could be done to implement the recommendations. I hope that the report will keep the issues raised in ‘Sweet 16?’ on the public agenda and I made many calls on Scottish Government and local authorities to make real sustained change.

## Schools in the Community

### Background

During the consultation with agencies, my office was told that some school build projects were having an adverse impact on children and young people – on their health, their access to regular exercise and their participation in community facilities. This linked in well with the priority children and young people had chosen for us to focus on - 'things to do', as their priority stating that they wanted facilities that were accessible and affordable.

There had been a great deal of research in this area and evidence suggested that poorly planned school build/development projects had had a major impact on communities throughout Scotland. With this in mind I brought together representatives from key organisations to discuss these issues and ascertain whether it was something we should work on. My office set up The Schools in the Community Group in November 2006.

### The Schools in the Community Group

The group comprised architects, community representatives, consultants as well as those with an interest in landscape and design, the environment, health and sport. Over the first few months the group decided that they would pool their expertise with the aim of: "optimising benefits for children and young people from the process of school development, in a way that safeguards and promotes their rights and contributes to safe, active, happy and sustainable communities and their environment and to learn from the experience of PPP (Public Private Partnership) and other models elsewhere with a view to promoting:

- built-in flexibility in process and design to permit response to future developments in education and the wider world;
- responsiveness to changes in legislation; and
- appropriate accessibility and community use;
- and to share this information for the common good."

The group's interest came from their concern to ensure that children and communities get the best deal out of the expenditure for school builds. They had felt that later stages of the school building programme, often involving public/private partnership financing, had learned lessons from the first round of such projects. They wanted to consolidate that learning and add their own perspective, based upon both their positive and negative experiences of the process.

### What did SCCYP do?

Over the first year, the group discussed the key issues and met with a number of stakeholders, including Convention of Scottish Local Authority (COSLA) and Association of Directors of Education in Scotland (ADES), the PPP Managers Group and Scottish Executive civil servants to gather as much evidence as possible from those involved in this area of work. The group also felt that it was important to open up a channel of communications with Scottish Executive civil servants and to share expertise – the purpose being to ensure that any future school build is responsive to the needs of children and young people and the communities they live in. Executive officials welcomed the expertise and wider knowledge that SCCYP had gathered and engaged with the group around the school building programme throughout the process.

The group's discussions along with the numerous external meetings were a revelation to those involved from SCCYP as this introduced a new area of work and a new – and on occasion rather technical language. SCCYP learned about community modelling, reconciling private ownership with community ownership, about capital expenditure (capex) and operating expenditure (opex) as well as the complex interface between the Treasury, Whitehall and the Scottish Government regarding capital expenditure and borrowing and investment and how they relate to public sector facilities. SCCYP also heard about excellent models of good practice, around how to consult with children and young people on school build such as the work undertaken by 'The Lighthouse' and reported in their 2008 publication "Senses of Place: Building Excellence"<sup>1</sup>

<sup>1</sup> <http://www.thelighthouse.co.uk/content/sensesofplacebuildingexcellence/116/>

After considerable dialogue and consultation with a variety of stakeholders, it was decided that SCCYP's added value would be in pooling the group's expertise and developing a model of good practice of the procurement process. The group wanted the model to be a helpful document, rather than a paper to be filed and were especially keen that it would prove useful to those about to launch themselves into the process of procuring a new school but that it would also help community representatives and other public agencies so that the school facilities will provide an accessible added resource for the whole community.

A sub group was set up to work on this model. To ensure that there was no duplication in activity taken forward by the Scottish Government and other agencies, the group ensured continual dialogue with relevant stakeholders including civil servants and Ministers, PPP Managers, Audit Scotland and ADES.

### **The model**

The model has gone through various iterations and has received input from a variety of sources and in particular from technical experts who have been working directly on PPP school projects. The aim of the model is to help local authorities decide what they want and what they can afford, taking account of all relevant interests, including the commitment to community use, especially by children and young people. It provides a step-by-step process, each supported by a series of prompts to help them think about the bigger picture. We hope that this will be a practical support to local authorities building new schools and to help them avoid common pitfalls. We also hope that it will also help community representatives and other public agencies to think through their involvement in the process and think how they can involve children and young people appropriately so that the school facilities will provide an accessible added resource for the whole community.

This model is published at a time when the Scottish Government and the COSLA have entered into a Concordat in terms of which "The Scottish Government and local government, through COSLA, will work together to develop policy in areas where local government has a key interest." The aim is to reduce bureaucracy and liberate local government to achieve a set of National Outcomes in the way most appropriate for local implementation. This is to be achieved through Single Outcome Agreements agreed between local authorities and the Scottish Government. This guidance will help the Scottish Government to meet its specific commitment to improve the learning experience for children and young people by improving the fabric of schools and nurseries, taking account of changing demographic trends, and the different circumstances across authorities, including accommodation pressures. It will help deliver some of the critical National Outcomes listed in the Concordat, in particular the commitment to "longer, healthier lives." The guidance can help achieve National Outcomes listed in the Concordat and how it can support local authorities in the development and implementation of their Single Outcome Agreements based on local priorities.

SCCYP also discussed the model with Ministers and civil servants who advised us to meet with Architecture and Design Scotland (A+DS), ADES and then COSLA to discuss how it might be used as part of the design and procurement process. At draft stage it was piloted by a number of local authorities and presented it before a number of audiences, notably the ADES Resources Committee and the Schools Estate Strategy Group. Feedback from these groups has been particularly useful in getting the model to its final stage and ensuring that it is fit for purpose. The final draft was presented to the ADES Resources Committee in January 2008 and following revision suggestions, it will be published in May 2009.

### **Other activities**

During the lifetime of this project SCCYP has also explored ways to introduce children's rights impact assessments in the work of Audit Scotland and Audit Scotland and fed into a topic guide which was part of a review they conducted with six pilot local authorities on The School Estate Management Plans (SEMPs)

## **Leisure and recreational activities for Looked After Children**

### **Background**

I had heard anecdotally – from both professionals and from young people - about the apparently restrictive impact of health and safety policies and procedures particularly on ordinary outdoor activities, on the lives of children in residential care.

### **What did SCCYP do?**

Previous published work by the researchers (Milligan & Stevens, 2006) indicated that managers of residential services believed that the existence of 'outdoor activity policies' or general health and safety considerations often led to a situation where workers did not attempt to undertake outdoor activities such as cycling, visits to the beach or trips to parks, because of bureaucratic barriers and the general need to avoid placing themselves in any situation where they might be criticised.

This research and current practice knowledge also suggested that children and young people are taken on certain types of activity but often ones which do not involve much free exploration of the outdoors or sustained physical exercise. Activities such as trips to the cinema, or bowling often being chosen rather than others. We wanted to test this out and commissioned the Scottish Institute of Residential Child Care (SIRCC) to undertake some follow up research.

### **The report**

The aim of this research was to describe and explain the barriers to, and opportunities for, outdoor play and recreation that exist in residential child care services and culminated in the publication of a report in November 2007: 'Playing it Safe: A study of the regulation of outdoor play for children and young people in residential care'. The research focused on six residential facilities. Interviews were conducted with two young people, one manager and two basic grade staff members from each of the facilities.

### **What did SCCYP find out?**

Amongst the findings, it was noted that organisational policies and procedures are a barrier to normal outdoor play, that children and young people in care may be unfairly stigmatised because of the health and safety requirements laid down by organisations and that practice around health and safety is largely transmitted by word of mouth with few units able to immediately access copies of health and safety procedures (and with staff in all sectors also being unclear about issues of consent.) It also revealed that the independent sector has a more realistic approach to risk assessment compared to the statutory sector, in spite of working to the same legislation.

Following the launch, I wrote to all local authorities to ask them about the type of guidance available in their area and whether this guidance was designed for residential care or for a different context, I also asked what rules – written or unwritten – workers actually applied and how this impacted on the opportunities available to children and young people.

Local authorities were then contacted three months later to ask what they have found out and whether they felt that there was a need for national guidance. I also noted that if there was a strong feeling that such guidance would be helpful, that I would be happy to convene a meeting to discuss what form this should take and how it should be produced.

SCCYP received a very high response from both sectors and whilst the information received was varied, the overall consensus was that developing national guidance on this would be extremely welcome. With this in mind, I approached SIRCC with a view to identifying key players in this field and exploring how we could take this forward. The first meeting of this advisory group was on April 14<sup>th</sup> 2009.

## Play

### Background

Because children and young people gave 'things to do' their top priority in our national consultation and because we have a duty to promote respect for the right to play, leisure and recreation set out in article 31 of the UNCRC, play was always going to be a priority for us.

### What did SCCYP do?

With Play Scotland taking a lead on this, SCCYP's key focus was to provide support for their call for a Play Strategy in Scotland. We also used our direct links with children and young people to bring together the work done with children on a local level and input that into the wider policy framework. We did both of these in a number of ways:

- Gathered views from parents, children and young people in the Western Isles on attitudes to play;
- Commissioned research to look at leisure and recreational opportunities for disabled children in two local authority areas and to look at policies and practices for outdoor play for children and young people looked after by local authorities;
- Published articles, gave interviews and addressed a number of audiences on issues of risk and play and the importance of play in child development;
- Brought the play agencies together in February 2007 to discuss how SCCYP could provide added value to current initiatives;
- Fed comments to the Petitions Committee on the Petition for a Play Strategy;
- Made representations to the Minister, especially around the Early Years Framework and most recently with regard to over 8– 17s and play and the need to invest in this group;
- SCCYP's Research Officer represented SCCYP at the Play Policy Forum; and
- Fed into the Early Years Framework at a variety of levels, including meetings with the Chairs of the Task Groups to emphasise the need for play to be given a high profile.

SCCYP focused on play in a number of our consultation responses including:

- SPP11 The Scottish Planning Policy 11: Open Space and Physical Activity guidelines for local authorities
- The Early Years Framework (Scottish Government/COSLA)
- Improving the Lives of Children and Young People Consultation on the Scottish Government's response to the 2008 Concluding Observations 2008 Concluding Observations from the UN Committee on the Rights of the Child

### United Nations Committee on the Rights of the Child

Play featured prominently in SCCYP's report to the UN Committee on the Rights of the Child. This was significant as it had never been a key issue for the UN Committee in relation to the UK before. Notwithstanding this, the Commissioners' view was that it was an important area which needed to be focused on. The aim was to secure a Concluding Observation on play to try and encourage the government and others to take play more seriously.

SCCYP called for the Scottish Government to:

- Develop a National Play Strategy in consultation with children, SCCYP and the voluntary sector as soon as practicable: the strategy should include public awareness raising on the importance of play in children's development;
- Make available additional resources for children and young people with additional support needs;
- Recognise the value of effective play-workers and ensure that this is reflected in professional salaries and resources; and
- Take further steps to address the barriers to children's right to play.

The Concluding Observations issued by the UN Committee picked up on play as a key issue and noted that:

*“with the sole exception of Wales, the right to play and leisure is not fully enjoyed by all children in the State Party, especially due to poor play infrastructures, notably for children with disabilities. The Committee is also concerned that the steady reduction in playgrounds occurred in recent years has the effect to push children gathering in public open spaces, a behaviour that – however may be seen as anti-social according to the ASBOs.”*

One of the Committee’s key recommendations from the Committee was that the State Party strengthen its efforts to guarantee the rights of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child. Children with disabilities received particular mention.

## Physical Punishment

### Background

In Scotland, the physical punishment of children is prohibited in all settings except in the family home. I believe this position to be untenable: the law should protect children and young people from all forms of violence, just as it does for adults. Over the years, this issue has sparked much heated debate. In 2003, efforts were made to change the law but these fell short of a prohibition on all forms of physical punishment. Section 51 of the Criminal Justice (Scotland) Act 2003 created the defence of 'justifiable assault', thereby allowing those with parental responsibility to physically punish a child. It also set out a non-exhaustive list of factors which a court should take into account when considering whether such punishment is reasonable. These factors include the duration and frequency of the punishment, its purpose, the child's age and its effect, amongst others. Section 51 also sets out certain types of assault which are unjustifiable. These include blows to the head, shaking and the use of implements.

I believe that the 2003 Act does not go far enough and that children need, and have a right to, additional protection. Furthermore, I believe the current law is confusing for parents and that they are looking for clear messages about how best to discipline their children without resorting to smacking. Thus, physical punishment formed a key priority within my Safe, Active, Happy action plan.

### What did SCCYP do?

Over the last few years, I have taken up numerous opportunities to call for a legal ban on physical punishment and for law reform to be accompanied by adequately resourced public education campaigns on positive forms of discipline and support for parents and carers. Our most significant activity in this area was our conference on physical punishment, 'Respecting Children, Supporting Parents: Working towards violence-free childhood', held on 20<sup>th</sup> June 2007. The aim of the conference was to progress the debate on physical punishment and to address the barriers (real or perceived) to law reform. We also aimed to encourage discussion around public education and how to better support parents.

Speakers at the conference included:

- Detective Chief Superintendent John Carnochan of the Violence Reduction Unit who talked about violence in Scotland and emphasised the need for preventative services;
- Lena Nyberg, the Swedish Ombudsman for Children, who discussed the Swedish experience of a ban on physical punishment and the accompanying public education campaign;
- Sue Moody, from the Crown Office and Procurator Fiscal Service, who described the circumstances in which prosecution under the Criminal Justice (Scotland) Act 2003 currently takes place;
- Ian Turner, from the then Scottish Executive, who discussed the progress made by the Executive since the 2003 Act and its commitments to support parents and provide parents and the general public with information about physical punishment and positive parenting;
- Elaine Chalmers from ChildLine and Jan McClory from ParentLine who discussed the calls received by their organisations and noted how often issues of physical punishment and discipline are raised; and
- Linda Dunion, 'See Me' Campaign Director, who discussed her experience of public education campaigns and the challenges to be overcome.

The conference was co-chaired by 15 year old Francesca Ruddy, a member of SCCYP's Reference Group. The conference also witnessed the premiere of a short film about physical punishment produced by SCCYP, ChildLine and ParentLine. The conference was attended by around 100 professionals from various sectors and from across Scotland.

In preparation for the conference, SCCYP worked with the Children's Parliament and talked to children aged eight to 13 about different styles of parenting and what children think works, and what does not work, when it comes to discipline. The children created colourful and thought-provoking masks to represent parenting styles and these were displayed at the conference (and taken home by some of the delegates).

**Other activities**

Other activities in this area have included:

- Publishing a joint statement alongside the Children's Commissioners in the rest of the UK setting out our shared position on physical punishment;
- Writing to the Council of Europe's Committee of Ministers regarding the UK's failure to comply with the judgment of the European Court of Human Rights in *A v UK*;
- Including physical punishment as a key area in the UK Children's Commissioners' joint report to the UN Committee on the Rights of the Child. This resulted in the Committee reiterating its recommendation that all forms of physical punishment be prohibited in its 2008 Concluding Observations;
- Taking all opportunities to promote law reform, parenting support and public education whether they arose in relation to policies being developed by the Scottish Government (such as the Early Years Framework) or in relation to Bills before the Scottish Parliament; and
- Liaising with the Children Are Unbeatable! organisation in Scotland.

My office has continually looked for opportunities to raise the physical punishment issue and, in particular, to call for public education on violence against children and support for parents.

## **Vetting (and other related issues)**

### **Background**

At the time of SCCYP's policy priority consultation, the Protection of Children (Scotland) Act 2003 (which sought to regulate who could work with children) was being implemented and proposals from the then Scottish Executive regarding a new vetting and barring system were imminent. During the consultation, the issue of vetting adults to work with children was raised repeatedly by stakeholders. They expressed concern that the vetting system in place at that time was overly protectionist, bureaucratic and cumbersome. They feared that it was putting adults off working with children and that, as a result, opportunities for children to take part in activities were being restricted. SCCYP therefore chose to carry out further work on issues around vetting given that it was so central to both the priority selected by children and young people (Things To Do) and the priority selected in association with stakeholders (Promoting Proportionate Protection).

SCCYP's approach to vetting has been that the office supports putting in place measures to ensure that those who pose a risk to children are not permitted to work with them. However, we also want to make sure that those measures are necessary and proportionate, and that they do not act as barriers to adults who have much to contribute to improving children's lives and facilitating their access to, for example, leisure and cultural activities.

### **What did SCCYP do?**

Over the last few years, I have consistently promoted SCCYP's approach to proportionate protection to law and policy makers. SCCYP has met with a range of stakeholders to discuss vetting systems and how they can be improved, and we have responded to several consultations by government and calls for written and oral evidence by the Scottish Parliament. Much of our work centred around commenting on the Protection of Vulnerable Groups (Scotland) Bill, which was passed in 2007, and subsequent secondary legislation.

Indeed, while this Bill was before Parliament, SCCYP convened a stakeholder meeting to discuss the Bill's vetting provisions. This led to my office producing an MSPs briefing for the Stage 1 debate. The briefing highlighted concerns and made recommendations including that there be an audit of the current vetting system before any new legislation is enacted; that changes to the vetting system should be piloted and should allow for staged implementation; that local authorities should be encouraged to adopt a national approach to implementation; and that information and training provided to organisations should emphasise good child protection practice generally, and should not focus solely on vetting and barring systems.

The vetting system can be complex and many of those required to implement vetting arrangements may lack the capacity and the capability to do so. Nevertheless, it is vital that they are aware of their duties and how to fulfil them. During the course of SCCYP's work on the Bill, it became clear that while training and awareness raising can help, organisations and those seeking to volunteer or work with children may still have questions. It is important that they know where to turn for answers. With that in mind, I proposed establishing a service to which all those working, or seeking work, with children could turn for information and guidance. I described this service as an 'Enabling Unit'. I brought together a number of agencies including representatives from Volunteer Development Scotland, childminding organisations, the Scottish Sports Association, The Scottish Out of School Care Network, the Care Commission and Unison to discuss this as an option.

My concern was that the proposals on vetting may take society down a more risk averse route. The proposal to establish a Vetting and Barring Unit to screen those who wish to work with children was key to this. Whilst recognising that no one could object to a system designed to put barriers in the way of those who wish to hurt children, it could also put barriers in the way of innocent adults who genuinely want to work with young people and make a positive contribution to their lives. I suggested that the Vetting and Barring should be matched with a positive counterpoint – an Enabling Unit that will encourage people to work with children and young people (whether on a paid or voluntary basis) and will help them do it. The unit would provide positive encouragement for people worried about the processes involved in working with children and young people, with information and support offered

through an alliance of agencies. SCCYP has also had subsequent discussions with Central Registered Body in Scotland (CRBS) and its expanded role. Whilst I support this, I am keen to ensure that those proposing small initiatives have a first port of call that is easily accessible.

### **Information sharing**

In the course of SCCYP's work on the vetting provisions of the Protection of Vulnerable Groups Bill, we also addressed Part 3 of the Bill which related to information sharing for child protection purposes. Yet again, I welcomed attempts to increase protection for children, but expressed concern that the measures proposed were not the most appropriate means of achieving that goal and that they could have unintended, negative consequences for young people. Furthermore, little consultation had been carried out prior to their inclusion in the Bill. SCCYP's Reference Group carried out a children's rights impact assessment of the information sharing provisions. They expressed concern that the provisions regarding information sharing would result in the erosion of young people's privacy and fewer young people seeking help from professionals. SCCYP submitted the young people's assessment as part of its written evidence to the Education Committee of the Scottish Parliament. Eventually, the then Executive withdrew the information sharing provisions from the Bill. Instead, it sought to develop a non-statutory Code of Practice on Information Sharing. A member of SCCYP staff participated as an observer in the working group set up to advise on this Code of Practice. In addition, the Executive carried out further consultation with SCCYP's Reference Group about information sharing to help inform the Code of Practice.

I also addressed the Cross Party Group on Sexual Health to discuss information sharing.

### **Overnight stays**

A related issue which has been raised with SCCYP several times by young people and professionals concerned overnight stays with friends for looked after and accommodated children. Young people in public care have long complained that their friendships are undermined by excessive regulation of overnight stays with friends. This has been exacerbated since the introduction of Disclosure checks: young people say that the local authorities who look after them have been requiring such checks on friends' families before overnight stays are approved. This makes them feel embarrassed and stigmatised and it inhibits the development of friendships. Recently, the Government has consulted on draft guidance on overnight stays for looked after children. SCCYP has responded and has promoted a proportionate approach to approving overnight stays. The response was informed by the views of looked after young people (which were sought during a consultation held jointly by SCCYP and Who Cares? Scotland).

### **Research**

To support SCCYP's work in this area, I commissioned three key pieces of research:

- Adult attitudes' towards contact with children and young people;
- Investigating the barriers to contact with children and young people: regulations and fear of allegations; and
- Research overview into criminal disclosure systems in other countries.

(See page 27-28 for more detail on SCCYP's research activities)

## **Leisure and recreational opportunities for disabled children**

### **Background**

I had heard that disabled children were disproportionately affected by the lack of 'things to do' agenda. Anecdotal evidence pointed to a number of factors as to why this was the case and included: limited resources; over protective parents; insurance fears/health and safety concerns; lack of choice in terms of facilities, accessibility and lack of information about what is available. Also of concern was the fact that many children my office spoke to felt that they had limited say in the matter and felt that they were seldom included in the development of activities.

### **What did SCCYP do?**

I commissioned Playback to carry out a small scoping study on the accessibility, availability suitability of leisure and recreation facilities for disabled young people aged between 12 and 18 years old within two local authority areas: Edinburgh and North Ayrshire.

A number of key messages came out of the report – which included the importance of friendships, involving children in decisions that affect them, continuing a dialogue after disseminating information. Following on from this research, SCCYP and Playback launched the findings of a nationwide study on this very subject. The results illustrated that directly involving children and young people and listening to what they have to say, can both improve services and help to empower young children with additional support needs.

This launch event 'What About Us' took place on January 16th 2008 and was led by children and young people with additional support needs who spoke about their experiences of friendships, leisure and recreation in their local communities. The presentation included the results of a nationwide questionnaire that the young people helped to design and send out to other young people in Scotland to ask them about their experiences of life outside school. It also highlighted how the process of participation in this project has helped to empower them and to identify solutions. For example – they have highlighted issues such as how information should be disseminated, how services can be improved and how friendships can be initiated and developed. Invitations were sent to MSPs and Chief Executives of local authorities as well as those working with and for children and young people with additional support needs. Those attending included MSPs and Government Ministers as well as representatives from the voluntary sector.

Mary Mulligan MSP submitted a motion to Parliament welcoming the publication of the nationwide study and the research commissioned by my office. She highlighted that there are still significant barriers to accessing leisure and recreational opportunities and that it is vital for local authorities to fulfil their duties and obligations to those young people and to actively listen to and engage with them in the process of developing recreation and leisure services.

## **Anonymity before conviction**

### **Background**

One of my first presentations was the McClintock Lecture 2004, organised by Safeguarding Communities, Reducing Offending (SACRO). In this, I discussed the extent to which our system of justice, which allows the naming of suspects and the open coverage of trials contributes to the fears that inhibit the protection and development of children and young people, and what, if anything, can be done to achieve a better result. The idea behind the lecture was to open a debate rather than reach any firm conclusions, but also to inject another factor into the debate, – the welfare of children and young people. Article 3 of the UNCRC commits us to taking the best interests of children as a primary consideration in all matters that affect them. It specifically identifies “courts of law, administrative authorities or legislative bodies” as being amongst the bearers of this duty. It is therefore necessary to re-consider all of our procedures in the light of their impact, immediately or more remotely, upon the interests of our children.

The issue had already been discussed in the context of rape and sexual abuse of children where the focus had been on the damage done to the person accused of crimes that were never proven. I wanted to highlight that there was another negative impact in respect that, if adults feel they will be treated unfairly when an allegation is made against them, this will cause them to draw back from any contact that they feel might make them vulnerable to a false allegation or misinterpretation of their motives. This acts to the detriment of children and young people by inhibiting the kind of healthy relationship with adults that children need and want.

The subject was a sensitive one as it could be misunderstood as an attempt to roll back on some child protection developments or to reinforce the mistaken idea that children often lie about abuse. Voluntary agencies would have found it difficult to pioneer this perspective because, if it were misunderstood, this could have a significant adverse impact on their funding. It was therefore appropriate for agencies to raise the issue but for SCCYP to take the lead. Agencies were especially keen to understand how the absence of anonymity before conviction is a barrier to adults working with children and young people and the implications on children and young people of gaining anonymity.

### **What did SCCYP do?**

My office has raised the issue with policy makers and interested parties, with MSPs of all persuasions and with teaching unions and Scottish Government civil servants. My office has also spoken to representatives of the Law Society to discuss the issue and to pass on our findings as well as written articles for the press. I also commissioned research to test this out.

The research on ‘Adult attitudes towards contact with children and young people’, conducted by Rocket Science gave us a strong evidence base to pursue this issue. Fear of accusations of harming children and young people was shown to be the main reason people would hesitate in helping a child or young person in distress or danger. This fear created reluctance from men to get involved in activities involving children and young people.

We also followed up this research to test out whether there was any sympathy for the idea of anonymity before conviction and whether this would help to alleviate the fears that adults have been expressing in terms of false accusations.

The follow up research demonstrated that there was a significant distrust of children and young people, a key factor underlying the fear of being falsely accused of harming a child or young person. There were a number of reasons for this which were explored in some detail. One significant point which emerged was that overall, people felt saddened by these issues; they felt it reflected badly on the state of society and was detrimental to the ability of adults to have positive relationships with children and young people.

The researchers encouraged participants to think through solutions to the current situation. The fear of accusations is a deep rooted and extremely complex fear, influenced by many factors. Participants acknowledged that some fears were not based on experience or

knowledge of anyone who had been accused. Despite concerns over allegations, participants were able to identify a number of areas that they felt would reduce people's fear of being falsely accused of harming children or young people. These findings have been helpful in taking forward the case for anonymity before conviction. I have always acknowledged that this issue has a much wider significance and interest than that of my office, encompassing issues about open justice. I have hoped, and still do hope, that it will be taken up for systematic and thorough exploration by a body such as the Scottish Law Commission.

**Other activities**

SCCYP has also been in discussions with Children 1<sup>st</sup> around the idea of holding a think tank around managing allegations relating to child protection. This was supported by the Safe, Active, Happy Advisory Group and representatives from Children 1<sup>st</sup>, SIRCC and SCCYP met to discuss how to take this forward. As part of this, it was felt it would be helpful to include the thinking from the current TFN (The Fostering Network) led project looking at allegations against foster carers. The seminar was originally to be held in early February but a number of key stakeholders were unable to make that date so it has been rearranged for May 2009.

## Children affected by parental substance misuse

### Background

In Scotland an estimated 40,000 - 60,000 children have a parent with a drug problem and worryingly this is considered to be a conservative estimate. Running alongside this is an estimated 80,000 - 100,000 children affected by parental alcohol misuse. The plight of children affected by parental drug use was first highlighted in "Hidden Harm", a report produced by the UK Advisory Council on Misuse of Drugs in 2003. In recent years there have been several high profile cases in Scotland that have ended in the tragic deaths of children of drug using parents. I have at times commented on these cases and have written a number of opinion pieces looking at the issue in terms of children's rights. My main primary concern has been with children in their early years whom we risk exposing to irreparable damage if we fail to act quickly and decisively in their best interests. The Committee on the Rights of the Child noted in 2006 "...young children require particular consideration because of the rapid developmental changes they are experiencing; they are more vulnerable to disease, trauma, and distorted or disturbed development, and they are relatively powerless to avoid or resist difficulties and are dependent on others to offer protection and promote their best interests". The Scottish Government has established a number of initiatives to try to improve outcomes for children affected by parental substance misuse. These have been set out in 'Hidden Harm: Next Steps' (2006), the drug strategy (2008) and alcohol framework (2009).

Added value is provided to this debate by ensuring that any early years strategy takes into account a "rights of the child" based approach. The link to Safe, Active, Happy is that children in this category are often under protected and that SCCYP can provide added value to the debate. My office has highlighted this in its response to the Early Years framework. We have also noted that whilst the Hidden Harm policy focus is on drugs, some of the same considerations would apply to children whose parents misuse other substances, such as alcohol.

SCCYP's key recommendations are:

- An explicit children's rights approach should be taken to decisions about the care and protection of the children of drug misusers. This should acknowledge that the rights at stake are fundamental to the child's survival and development;
- The rights of children in their early years living with drug misusing parents should be taken into account at all times by practitioners;
- The early years strategy developed by Scottish Government should take account of the need to ensure that a range of services are provided to support young children of drug misusing parents;
- The strong supportive role that the extended family plays in a child's life in reducing the impact of their parents drug use on them should be advocated.
- An assessment model should be developed for those working with children in their early years to take into account the fundamental rights of the child;
- Those workers whose primary focus is on drug misusing parents should be trained in understanding the importance of children's rights; and
- We need to make sure that, where children's needs are best met by removing them from their birth families, the relevant decisions are made appropriately and permanent placements found quickly.

## Research activities

SCCYP has undertaken a number of pieces of work with a view to countering the more extreme end of risk aversion by adults that can inhibit the development of children and young people. This has included research into adult attitudes to contact with children and young people, disclosure systems in other European countries, and policies and practices for outdoor play for children and young people looked after by local authorities.

### **Adult perspectives on contact with children and young people (aged 0-18 yrs)**

Rocket Science was commissioned to undertake this piece of research for SCCYP investigating what considerations influence adults' decisions to have contact, help, work or volunteer with them.

Some of the main themes that emerge from this initial research were:

- The fear of accusations of harming children and young people;
- The reluctance of men to have contact, help or work with children and young people for fear of suspicion of their own motives;
- The fear of teenagers; and
- The perceived power of children and young people.

Many people also said that regulations were a barrier to getting involved in volunteering with children and young people. In order to build on the debate generated by these initial findings, we conducted further research which:

- Explored in detail issues related to the fear of accusations of harming children and young people, and identify ways to alleviate these fears, enabling more adults to have positive contact with children and young people; and
- Explored people's views of what is needed to minimise the negative impact (or perception of the negative impact) of regulations and make people feel more positive about working with children and young people or setting up activities for them.

The Rocket Science evidence based findings has helped us take forward a number of our Safe, Active, Happy workstreams.

### **Scottish Social Attitudes module on young people and crime**

SCCYP was asked by the Scottish Government to provide input into the 2009 Scottish Social Attitudes module on young people and crime. Analysts in the Scottish Government who were aware of the adult attitudes research were keen to know if the 2006 questions were still valid or whether SCCYP wished to offer some suggestions on the phrasing of the questions for the next iteration of the module to be conducted in 2009.

I raised concerns that the module's focus appeared to be solely on bad behaviour by young people and disrespect for older people, with no corresponding questions relating to problematic behaviour by older people and disrespect for young people. I noted that this opens the door to sensationalist headlines that focus on adult fears with no counterbalancing narrative that puts this into perspective, a possibility that I was keen to avoid when we published our own research on adult attitudes to contact with children and young people. I hope that my input has helped to provide a balance by inserting some additional statements to the survey which focus on how young people feel about adults and the way adults perceive and treat them. I also linked this into the UNCRC Concluding Observations which included strong statements about the demonisation of young people in the UK. The survey provided an excellent opportunity to address the above and to also help us to take forward our SAH agenda.

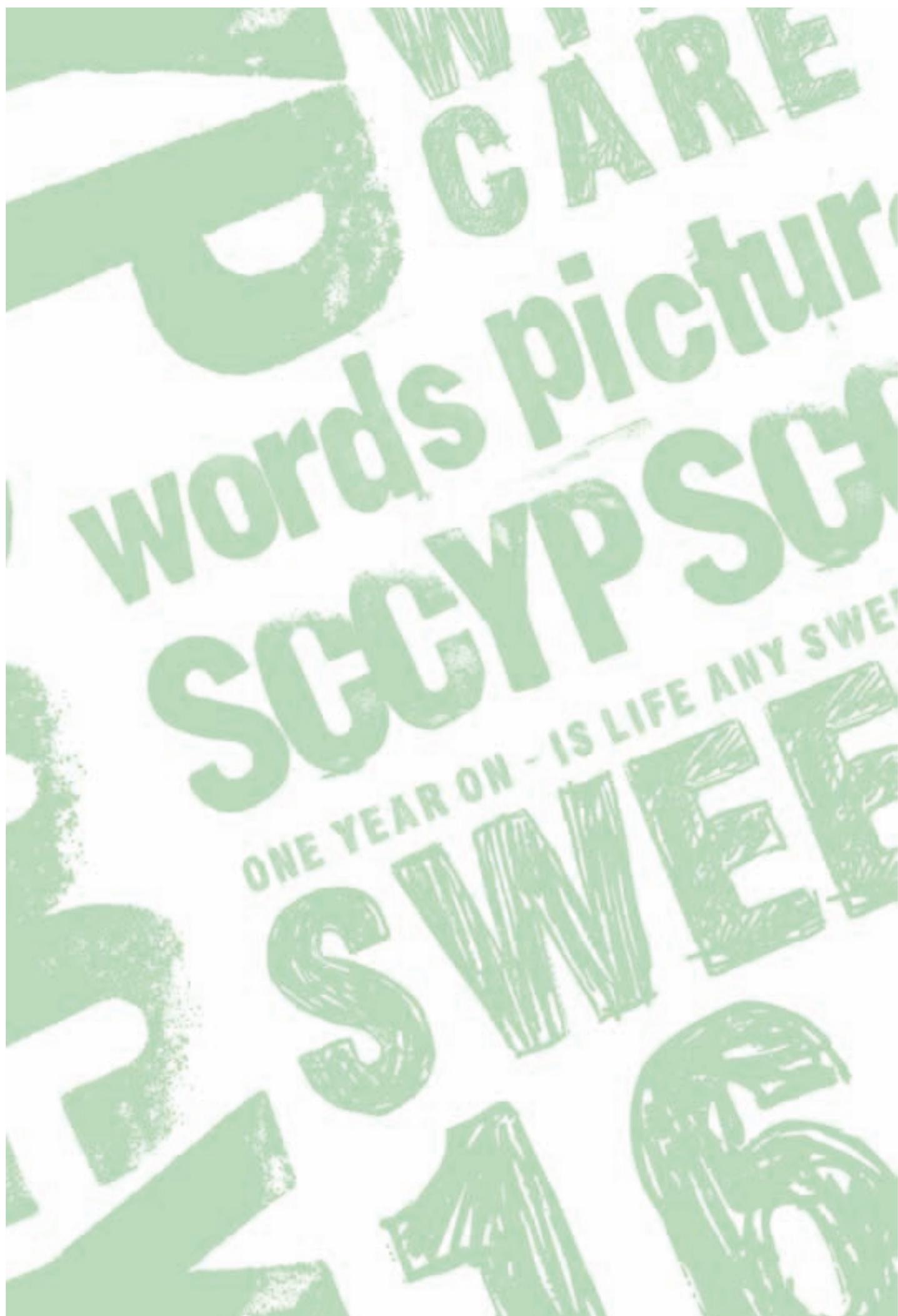
### **A review of child death and significant child abuse cases in Scotland**

This piece of work was conducted by the University of Edinburgh/NSPCC Centre for UK wide learning in Child Protection (CLICP). The aim was to map, review and analyse inquiries held into child abuse conducted in Scotland between 1960 and 2007. The focus was on the circumstances which led to the inquiries being conducted, the nature of the inquiries, the funding arrangements, the length of the inquiries, the findings and recommendation, the extent of implementation and conclusions on gaps and progress. Early on it was apparent that assessing the extent to which recommendations had been implemented would be difficult as many recommendations are local rather than national and some inquiries/reviews reported more than a decade ago. The focus therefore became on the impact these inquiries and reviews had on child protection policy development.

### **Criminal Disclosure Systems**

SCCYP commissioned Alison Hunter to undertake a short piece of research to explore disclosure in seven countries (mostly EU but including New Zealand). This was not an easy task, not least because types and amounts of information across countries differed significantly. On occasion, when information was available, it was difficult to assess its reliability or currency. One key finding was certainly the dearth of factual evidence which exists in this area. Whilst a straightforward comparison was not possible, we did receive enough information to provide an overview of systems and to develop an analysis of what this information might be telling us about systems in other countries.

We discovered that Scotland is well ahead of the game in our use of non-conviction information and have a lot to teach other countries. When giving evidence to the Education Committee, I noted that we could actually be world leaders in this field as some countries are still struggling to create systems that would allow them to have checks for the criminal records of people who apply to be scout leaders, and so on. The point was also made however that because we are so far ahead, "we are dropping off the cliff edge" and must think carefully about what we are doing. The research showed that none of the seven countries covered had evaluated the impact of its disclosure systems. I also noted that key questions need to be asked - Are we making life safer for children? At what point do we lose the benefits and start to get into the negatives? We must hold to the principle of putting up as many barriers as we can to prevent unsuitable adults from working with children while trying to find the tipping point at which we start to put barriers in the way of innocent, well-meaning adults and create a climate of fear.



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ONE YEAR ON - IS LIFE ANY SWEET

SWEET



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