

<b>Meeting</b>	<b>Policing Performance Committee</b>
<b>Date</b>	<b>26 August 2020</b>
<b>Location</b>	<b>MS Teams</b>
<b>Title of Paper</b>	<b>SPA Update on Children and Young People Act compliance</b>
<b>Presented By</b>	<b>Jackie McKelvie, SPA Head of Corporate Management</b>
<b>Recommendation to Members</b>	<b>For Consultation</b>
<b>Appendix Attached</b>	<b>No</b>

**PURPOSE**

This paper provides the legislative background to the Act, an update on the current position of SPA's compliance with certain public body duties within the Children and Young People (Scotland) Act 2014 and recommended proposed direction for future compliance.

## 1. LEGISLATIVE BACKGROUND TO CORPORATE PARENTING

- 1.1 The Children and Young People (Scotland) Act 2014 (the Act) is designed to facilitate a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, with the legislation encouraging preventative measures, rather than crises responses.
- 1.2 The Act is underpinned by the Scottish Government's commitment to the United Nations Convention on the Rights of the Child 1989 (UNCRC), and the national children's services improvement programme, Getting it Right for Every Child (GIRFEC). The Act also establishes a legal framework within which services are to work together in support of children, young people and families.
- 1.3 Part 9 of the Act introduced the concept of "corporate parenting" which involved placing new duties on some public bodies to act in particular ways in support of certain children and young people; i.e. looked-after children and care experienced young people. Both SPA and Police Scotland are named as a "corporate parent" within Schedule 4 of the Act.
- 1.4 Part 9 also details the duties of these named organisations, with Section 58 setting out six specific responsibilities of the duty, in so far as they are consistent with the proper exercise of each organisation's primary functions. They are as follows;
  - (a) *to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies;*
  - (b) *to assess the needs of those children and young people for services and support it provides;*
  - (c) *to promote the interests of those children and young people;*
  - (d) *to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing;*
  - (e) *to take such action as it considers appropriate to help those children and young people to; i) access opportunities it provides in pursuance of paragraph (d) and ii) make use of services, and access support, which it provides;*
  - (f) *to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people.*

## RELEVANT GUIDANCE ON COMPLIANCE

- 1.5 The Scottish Government has issued statutory guidance on Part 9 of this public body duty<sup>1</sup>. Section 44 of the guidance emphasises that an organisation's most senior corporate management will be held to account for ensuring that the duties set out in Part 9 are met. Guidance also highlights that individuals involved in the governance of organisations (i.e. councillors and independent Board members) have an important role in scrutinising the activity of senior management. Organisations should have a plan in relation to their corporate parent role and what they will do to comply with the duty, reporting publicly every three years.
- 1.6 Section 68 of the guidance acknowledges that although corporate parents will fulfil these duties in a variety of ways, in relation to their specific organisational functions, the six duties listed above are interrelated and must all be fulfilled in a manner appropriate to the corporate parent. For instance some corporate parents will be able to fulfil a duty independently, others only through collaboration.
- 1.7 Every corporate parent in schedule 4 has a role in improving the wellbeing of looked after children and care leavers, and the first and second corporate parenting responsibilities ('to be alert to matters' and 'to assess the needs') are, in part, designed to ensure organisations identify that role. At a minimum all corporate parents should be able to identify activities which help to promote Wellbeing (such as offering education, training and employment opportunities within the organisation) and take steps to promote looked after children and care leaver interests in whatever area of public policy the corporate parent operates in.
- 1.8 Guidance acknowledges that individual corporate parenting plans and reports are likely to differ significantly in their scope and emphasis, reflecting the abilities of corporate parents to realise specific Part 9 duties within the exercise of their other functions.
- 1.9 Section 60 requires all corporate parents to collaborate with each other, in so far as is reasonably practicable, when exercising their corporate parenting duties, where they consider that doing so would

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<sup>1</sup> <https://www.gov.scot/publications/statutory-guidance-part-9-corporate-parenting-children-young-people-scotland/#:~:text=%20Statutory%20guidance%20on%20Part%209%20%28Corporate%20Parenting%29,alongside%20the%20guidance%20for%20Part%201...%20More%20>

safeguard or promote the wellbeing of children and young people to whom Part 9 of the Act applies. Collaboration may involve sharing information, providing advice or assistance, co-ordinating activities (and seeking to prevent unnecessary duplication), sharing responsibility for action, funding activities jointly, as well as publishing a joint plan or joint report.

## **2. CURRENT POSITION - SPA COMPLIANCE AND NEXT STEPS**

- 2.1 It should be noted that SPA, in its statutory role of holding the Chief Constable to account for policing, has, to some extent, acted in the spirit of the Children and Young People Act, evidenced through past work on scrutinising the use of stop and search and current scrutiny of the use of temporary police powers as a result of the pandemic. Through this previous and current work the SPA is assessing and keeping under review the impact of policing powers on human rights, including those of looked-after children and care experienced young people.
- 2.2 However, to date, unlike Police Scotland, SPA has not published a detailed plan, nor formally reported on how the organisation is meeting its specific corporate parenting duties. Reasons for not progressing a more formal approach to compliance in this area included the lack of officer capacity to take the work forward and the absence of an SPA Corporate Plan outlining what was to be done in support of the duty. In recognition of this gap the SPA 2020 organisational development programme will put in place specific roles responsible for progressing this area of work. In addition the new SPA Corporate Plan 2020-23 and accompanying Annual Business Plan include commitments and specific activities related to public body duty compliance.
- 2.3 Whilst the SPA can – and, indeed, must – make a general assessment of the needs of children and young people across Scotland as a whole, as an organisation whose primary role is one of scrutiny rather than service delivery, there is a limit to what the SPA can actually do itself. In both the scrutiny areas cited above, close collaboration with police partners and other stakeholders was a fundamental tenet of the approach. Similarly, in relation to formal corporate parenting responsibilities, SPA can realistically only fulfil its duties and obligations meaningfully in this area through collaboration with Police Scotland.
- 2.4 It is recommended that SPA should therefore engage and work closely with Police Scotland in this area, thus satisfying the duty of

collaborative working set out in Section 60. There will be many ways in which the SPA can plan to discharge its obligations to children and young people in Scotland by working in conjunction with Police Scotland, as it conducts its statutory scrutiny function through Board and Committee business.

- 2.5 For example, through the Policing Performance Committee, commissioning evaluative work on a range of themes aligned to the needs of children and young people, e.g. measuring the impact of campus cops in schools in preventing conflict and building better relationships between children and authority; or how trauma-informed policing is supporting young people to progress through school, training and work; and how vulnerable children can be identified through risk assessment and partnership working with other public sector and third sector partners on prevention and early intervention. Another example could be working with Police Scotland to agree and ring-fence a small portion of the policing budget to pay for diversionary activities for children and young people.
- 2.6 It is recognised that there is an opportunity for this collaborative work to begin immediately, with the possibility for development of a new joint plan by SPA and Police Scotland for the period 2021-24.<sup>2</sup>

### **3. FINANCIAL IMPLICATIONS**

- 3.1 There may be financial implications with this report if there is in-principle agreement by both SPA and Police Scotland to commit resources in support of this public body duty.

### **4. PERSONNEL IMPLICATIONS**

- 4.1 There are no personnel implications associated with this paper. Relevant officer roles to support compliance with the duty have been included as part of the SPA 2020 organisational development programme, due to be implemented in autumn 2020.

### **5. LEGAL IMPLICATIONS**

- 5.1 The proposals set out in the paper are consistent with what is stated in the Children and Young People's Act (Scotland) Act 2014 and the related Scottish Government statutory guidance.

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<sup>2</sup> Police Scotland published its initial Corporate Parenting Plan in 2015, reported on progress in 2018 and is due to report in 2021, given the statutory 3-year planning and reporting cycle.

## **6. REPUTATIONAL IMPLICATIONS**

- 6.1 There are reputational implications associated with this paper. It is important that the Authority has effective arrangements in place to monitor, measure and assess both its own and Police Scotland's compliance with this legislation, in its role as an important public body and in order to maintain confidence in the policing of Scotland and the oversight and scrutiny of policing.

## **7. SOCIAL IMPLICATIONS**

- 7.1 There are no social implications associated with this paper.

## **8. COMMUNITY IMPACT**

- 8.1 There are no community implications associated with this paper.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 There are equality implications associated with this paper. The duty is predicated on taking into account, assessing and keeping under review the wellbeing of certain children and young people within the Children and Young People's Act (Scotland) Act 2014.

## **10. ENVIRONMENT IMPLICATIONS**

- 10.1 There are no environmental implications associated with this paper.

## **RECOMMENDATIONS**

Members are requested to:

Consider the recommendation to commence joint working by SPA and Police Scotland to best comply with this public body duty.