

Submission to the Smith Commission by the Scottish Children's Services Coalition

Background

The Scottish Children's Services Coalition (SCSC) is a policy-focused collaboration between leading independent and third sector service providers who have come together to work with political and other key stakeholders to help improve the delivery of children and young people's services.

SCSC members deliver specialist care and education services for children and young people with complex needs, such as learning difficulties and learning disabilities, as well as direct help and support for them and their families. They also provide independent advocacy, advice and representation for children and young people with care experience.

SCSC submission

In line with both the SCVO and Children in Scotland, we agree that for Scotland to be the "best place in the world to grow up for children and young people", a person centred approach the devolution of certain aspects of the welfare system is essential. Only then will we be able to properly support the most vulnerable and disadvantaged in our society.

We have used our submission to focus on three particular key areas –welfare, employability and job support and equality legislation.

Welfare

The devolution of powers and associated budgets that affect welfare support is vital and has been widely discussed.

The organizations within the SCSC provide a range of services which interact with the benefits system and wider welfare policies, as well as working closely with people who claim in and out of work benefits.

Individual benefits include: Job Seekers Allowance; Employment Support Allowance/Incapacity Benefit; Housing Benefit; Attendance Allowance; Carers Allowance; Child Benefit and Personal Independence Payment. Associated assessments and how these affect key groups in society, especially the disabled, is also a key concern.

We are aware that the third sector has considered the case for devolving some individual benefits where they could bring an area of devolved policy – e.g. housing – into alignment with the associated benefit. Others such as JSA have been discussed because of concurrent debates about the devolution of employment support services, such as the Work Programme, to the Scottish Parliament.

We suspect, however, that piecemeal benefit transfer will create more alignment difficulties, especially with the eventual introduction of Universal Credit.

Moreover, many aspects of our welfare system and policies, in particular benefits, are interrelated. For example, Carers Allowance interacts with a number of benefits including Personal Independence Payment and Disability Living Allowance. It is in this context – and with a desire to develop a coherent, harmonised welfare system – that much of the discussion about the devolution of welfare has taken place.

The devolution of all powers relating to welfare, excluding pensions, we believe would enable Scotland to adopt a more coordinated approach to linking welfare to such interdependent areas as health and social care, housing, employment and skills.

Employability and job support

Those children and young people we work with face considerable barriers when entering the labour market.

What the current discussion of devolution has been about is the alignment of policies and services to ensure there is a strategic and consistent approach.

However, as an example, the Access to Work scheme is reserved to and operated by the UK Government, but other support is provided by local authorities, the Scottish Government and the third sector across social care, skills services, etc.

This situation has been complicated by recent announcements e.g. vocational rehabilitation support. Jobcentre Plus advice and services remain reserved but we have a one stop shop careers advice and support service which is devolved alongside other interventions which support access to the labour market provided by the third sector e.g. Community Jobs Scotland

The suggested devolved powers would cover: employment rights and duties, industrial relations, health and safety, and job search and support.

The devolution of employment would allow Scotland to take a ‘whole government’ approach aligning employment policy with other devolved areas such as education, skills, childcare, housing, health and social care.

Devolution of employability was also unanimously endorsed by the Christie Commission and enjoys broad support in Scotland. Proposals which establish an agency role for Scottish Government to deliver DWP programmes are not acceptable at any level.

There is an opportunity for realignment and rethinking of services and support which help people to remain in, find, and progress in employment, as outlined by the Expert Working Group on Welfare.

Equality and human rights

Devolution of equality law is supported by the SCSC given the strong links and impact equalities have on many areas of devolved policy including housing, health, education and justice. At present the reserved nature of equality law can be a hindrance to the development of policies by the Scottish Parliament creating unnecessary dissonance and disconnect.

We as an organisation would specifically like the Scottish Parliament to be able to classify *Protected Characteristics*.

Devolving Protected Characteristics agrees with Chief Executive of Children in Scotland Jackie Brock's recommendation that any powers within the welfare system devolved should be "powers with a purpose".

Currently Care Experience is not a Protected Characteristic and only Westminster legislation could make it become one. We also think other identities may also benefit from this power to protect other groups.

In brief this is why:

Equality is currently a reserved power. We are governed, in the main, by the Equality Act 2010. The Scottish Parliament currently has no powers to legislate on equalities but does have a duty to give due regard to equalities.

The Equality Act 2010 names the following as protected characteristics:

Age
Disability
Gender Reassignment
Marriage and Civil Partnership
Pregnancy and Maternity
Race
Religion or belief
Sex
Sexual Orientation

The legislation defines direct discrimination, defines what it is to experience multiple discriminations because of a mix of characteristics.

As a case example, this is what the legislation says about how people that identify in those protected characteristics should experience education:

Section 85

Pupils: admission and treatment, etc.

(1)The responsible body of a school to which this section applies must not discriminate against a person—

- (a)in the arrangements it makes for deciding who is offered admission as a pupil;
- (b)as to the terms on which it offers to admit the person as a pupil;
- (c)by not admitting the person as a pupil.

(2)The responsible body of such a school must not discriminate against a pupil—

- (a)in the way it provides education for the pupil;
- (b)in the way it affords the pupil access to a benefit, facility or service;
- (c)by not providing education for the pupil;
- (d)by not affording the pupil access to a benefit, facility or service;

(e)by excluding the pupil from the school;

(f)by subjecting the pupil to any other detriment.

If Care Experience was classified as a Protected Characteristic then the disproportionately poor educational outcomes of care experienced children would have to come under further scrutiny and be addressed.

So, having the ability to protect the care experience characteristic in Scottish law would be a key step in enabling Scotland to transform experiences in school and wider-education for one of the most vulnerable groups in Scottish society.

It would also lead to more being able to reach positive destinations in increased training and employment, thus enabling those with care experience to participate more fully in our society helping to narrow this particular inequality gap.

This is only one example. The same could be said for a number of other areas including, health, housing and employment.

-ENDS-

Members of the SCSC are:

- **Falkland House School:** With over 30 years' experience, Falkland House School in Fife specialises in the care and education of boys who have additional support needs. It provides 39 and 52 week residential and day places to boys from early primary age through to 18 years old, taking referrals from all regions in Scotland and the UK.
- **Mindroom:** A Scottish charity dedicated to creating awareness of all kinds of learning difficulties. Mindroom also provides one-to-one support to families and offer help, advice and training to individuals and organisations who work with people with learning difficulties.
- **Spark of Genius:** An independent organisation offering residential care, education, autism services, post-16 employability programmes and adult services throughout the UK. It enables children, young people and adults who need a variety of support to achieve their potential.
- **Who Cares? Scotland:** A third sector independent advocacy organisation that provides individual and collective advocacy to children and young people with care experience across Scotland. It has been working with children and young people for 35 years and uses this experience to campaign, lobby and speak out both with them and on their behalf. This ensures that their views, needs and wishes are being sought, heard and listened to by local and national government.
- **Young Foundations:** Provides a range of services across the UK for children and young people - with or without learning disabilities or mental ill-health - through residential care for teenagers, transition care for young adults and fostering.

- **Kindred:** Provides information, advocacy and emotional support to parents/carers of children and young people with additional support needs.

Further information about the SCSC can be found at www.thescsc.org.uk.

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