

# National Care Standards Review Public Consultation

## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

#### Organisation Name

Together (Scottish Alliance for Children's Rights)

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

#### Surname

Harris

#### Forename

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### 3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

**Please tick as appropriate**

Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Yes, make my response, name and address all

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

**Please tick as appropriate**

Yes  No

available

*or*

Yes, make my response available, but not my name and address

*or*

Yes, make my response and name available, but not my address

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

***Please tick as appropriate***

**Yes**

**No**

## CONSULTATION QUESTIONS

### **Introduction**

Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have over 260 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland. We also provide a focal point through which Scottish NGOs report to the UN Committee on the Rights of the Child.

The views expressed in this submission are based on the general principles of the UN Convention on the Rights of Child (UNCRC) and do not necessarily reflect the specific views of each member organisation.

Together welcomes the opportunity to respond on the new National Care Standards proposals. We warmly welcome the focus on human rights in the proposals and believe that this will help to promote a rights-based approach across policy development and delivery, and help to support Part 1 of the Children and Young People (Scotland) Act 2014.

Children and young people will be impacted by the changes to care standards, as service users and as family members of service users. Therefore Together advocates that they are considered in all areas of Standards development, for both children and adult services.

### **Question 1**

Do you think that the new National Care Standards should be grounded in human rights?

- Yes - Together strongly advocates that the new national care standards should be grounded in human rights and warmly welcomes the decision to take a human rights based approach to drafting the new Standards.
- Grounding the new care standards in human rights will ensure that the rights of services users and responsibilities of duty-bearers are clear and transparent, and will ensure shared values and expectations which

demand recognition and respect for the inherent dignity and value of every human being.

- Together recommends that the Scottish Government ensure that human rights are applied to all three elements of the proposed structure of the new standards (overarching, general and specific standards) and not just the overarching quality standards.
- The new care standards should give strong consideration and explicit reference to the UN Convention on the Rights of the Child (UNCRC). This will ensure that the unique vulnerabilities and circumstances of children and young people are recognised and the additional barriers they face in having their rights respected, protected and fulfilled are addressed. Part 1 of the Children and Young People (Scotland) Act 2014 places duties on Scottish Ministers to consider and raise awareness and understanding of the UNCRC. It places duties on public bodies, including those involved in the inspection of children's services, to report on their fulfilment of children's rights. To complement these duties and progress the aspiration to 'make rights real' for children and young people, Together strongly recommends that the new Care standards which apply to children's services should, first and foremost, be grounded in the UNCRC.
- In order to ensure that the new care standards are understood and used effectively, an awareness and understanding of human rights will be required across all levels of care service inspection and delivery. Accompanying guidance should be grounded in human rights and training in human rights should be made widely available.

## Question 2

- a. Do you agree that overarching quality standards should be developed for all health and social care in Scotland?
  - Reflecting on the passage of the Public Bodies (Joint Working) Act, Together agrees that overarching quality standards should be developed to cover the delivery of services, to reflect this new landscape of health and social care integration.
  - Together recommends that consideration is given with regard to how such overarching standards would be applied to those children's health and social care services which local authorities have chosen not to integrate.

- To recognise the principles of and the obligations outlined in the UNCRC, and the additional barriers often faced by children and young people in having their rights realised, Together recommends that full consideration is given to the UNCRC when drafting the overarching quality standards. This is to ensure that the overarching standards are also fit for children and young people.

b. Do you agree that the overarching quality standards should set out essential requirements based on human rights?

- Together welcomes and strongly agrees with the decision to set out essential requirements in a rights based framework within the overarching quality standards.
- Children's services may require additional quality standards with direct reference to the UNCRC, highlighting that children and young people frequently need additional support to know and claim their rights.
- The new quality standards should take into account GIRFEC and the SHANARRI well-being indicators set out in the Children and Young People (Scotland) Act 2014. This would help to avoid confusion and to streamline indicators and standards, in both children and adult services.

c. Do you agree that the current National Care Standards should be streamlined and a set of general standards developed that would sit below the overarching standards and apply to all services?

- If this is to take place, the general standards should clearly show how they relate to each of the overarching standards.
- Any general standards should take account of the needs and vulnerabilities of children and young people, including those with disabilities and in care settings. In many cases, these needs and vulnerabilities can differ significantly from those of adults and this should be reflected in the new set of standards.
- Any general standards must be compatible with the UNCRC and include reference to the general principles (Article 2,3,6 and 12). As included above, the standards should also be compatible with the SHANARRI well-being indicators as defined in the Children and Young People (Scotland) Act 2014.

c. Do you think general standards should set out essential requirements and aspirational elements?

- Together recognises the need to future proof the new care standards and that having aspirations alongside essential requirements could help to promote continuous improvement.
- Essential requirements and aspirational requirements must be clearly articulated, with a clear distinction between what a service user can expect and what services aspire to.
- Essential requirements will be used as a means for redress for service users if standards are not met; as such, they should be absolutely clear and based on a human rights framework so that service providers can be fully held to account when they do not comply.
- Human rights are not aspirational – they are a set of entitlements that belong to everyone, everywhere, regardless of any status such as age, sex, or religion. If the general standards are to include essential and aspirational requirements, then they should be developed with this in mind along with a description of what both sets of standards mean.

d. Do you agree that a suite of specific standards are developed for particular aspects of care, circumstances or need?

- Together believes that this may help to reflect the diversity and complexity of care settings. Such specific standards should have a human rights framework at their core to ensure consistency in their understanding and application.
- Specific standards for children and adult services could help to reflect the particular circumstances and needs of different ages. A suite of specific standards for children's services should be developed using the UNCRC.

Through the development of the new structure for the National Care Standards, the Scottish Government needs to recognise the effects that adult services have on children and young people, such as those who have a parent or carer who is a service user. As such, the rights of children and young people must be embedded into standards for adult services.

### Question 3

a. What are your views on how standards should be written?

- Standards should be written in a way which is accessible to all service users. They should be presented in a variety of formats with due consideration of the various ages and capacities of all potential readers. The standards must be accessible to children and young people with special educational or communication needs.
- There should be child-friendly versions and these should be developed with children and young people. Together recommends that the Scottish Government consult with children and young people on how they would like the standards to be presented to them, to ensure that they are fit for purpose.

b. What are your views on the example of how the rights and entitlements of people using services and the responsibilities of service providers could be set out?

- Together welcomes the suggestion to set out the rights and entitlements of service users and the responsibilities of service providers. This could really help to increase the awareness and understanding of human rights across society and strengthen a human rights approach to care standards. Greater awareness of rights and entitlements of service users could help to assist in holding service providers to account if rights are infringed. There should also be information provided on how a service user can access redress.
- Rights and entitlements and responsibilities should be set out clearly; avoid jargon; be accessible and provided in a variety of different formats. There should be child-friendly versions available.
- Providing case studies may be useful to illustrate the rights and entitlements of users and responsibilities of providers in different settings.
- Alongside the above, service providers should also be provided with detailed instructions to delineate exactly what their responsibilities are. This could include self-assessment criteria.

#### **Question 4**

a. Do you think the Care Inspectorate and Healthcare Improvement Scotland should hold services they regulate to account for meeting the

proposed overarching standards, the general standards and the suite of specific standards?

b. How should we ensure that services not regulated by the Care Inspectorate and Health Improvement Scotland comply with the new standards?

c. We suggest that the Care Inspectorate and Healthcare Improvement Scotland, consulting with others, should develop the suite of specific standards. Do you agree with this?

## Question 5

- a. Please tell us about any potential impacts, either positive or negative, you feel any of the proposals set out in this consultation paper may have on particular groups of people, with reference to the 'protected characteristics' listed above.
- The proposals set out in the consultation paper will impact on children and young people; as service users and as the children of family members or carers that are service users.
  - The UNCRC requires that State Parties ensure that all children and young people have the right to non-discrimination, and regardless of any status including age, disability, religion and belief, sex, sexual orientation, race and ethnicity (Article 2).
  - The Scottish Government must take into account the rights of children as enshrined in the UNCRC and ensure that the General Principles of the Convention, including Article 2, are respected throughout the development of the new care standards. Ensuring that the provisions within the UNCRC are respected, protected and fulfilled in the development of the new standards and delivery of care demands a continuous process of impact assessment and evaluation.<sup>1</sup> As such, it is essential that a full Child Rights Impact Assessment (CRIA) is undertaken on the proposals to determine how the proposals will impact, both positively and negatively, on the rights of children and young people, both as service users and as a family member of service users. This

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<sup>1</sup> UN Committee on the Rights of the Child (2013). *General Comment No. 5: General measures of implementation of the UNCRC* (pg 11)

would be in line with the Scottish Government's commitments to children's rights as evident in Part 1 of the Children and Young People (Scotland) Act 2014.

b. Please tell us about any potential costs or savings that may occur as a result of the proposals set out in this consultation paper and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

### **Question 6**

Please tell us if there is anything else you wish us to consider in the review of the National Care Standards that is not covered elsewhere in the consultation paper.

