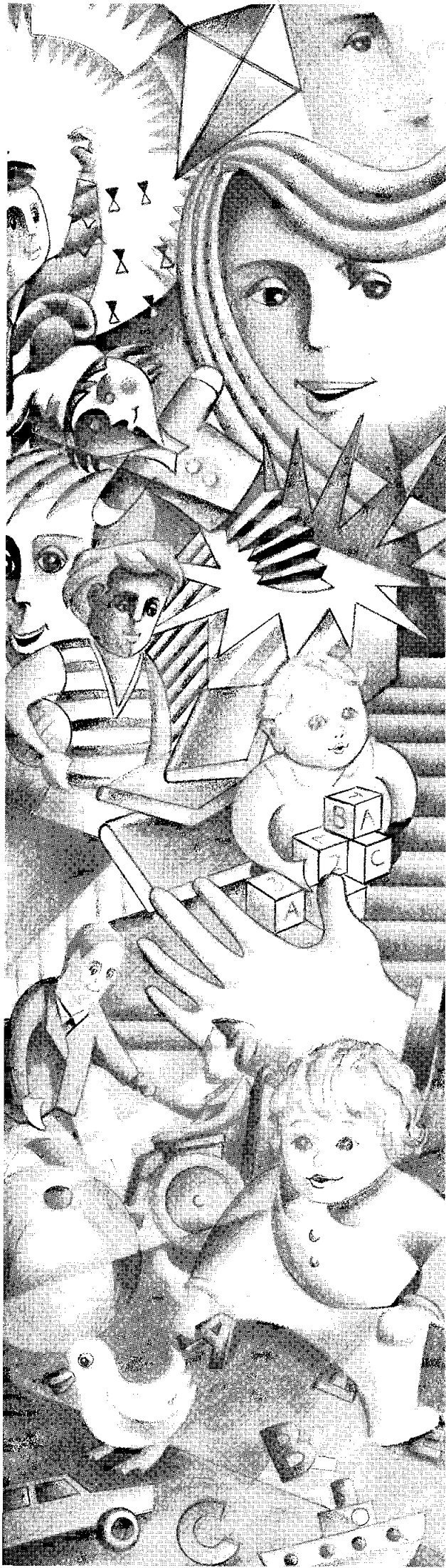




THE SCOTTISH OFFICE



Scotland's Children

Proposals for Child Care Policy and Law





THE SCOTTISH OFFICE
SOCIAL WORK SERVICES GROUP

Scotland's Children: Proposals for Child Care Policy and Law

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Foreword by the Secretary of State

The care of Scotland's children is one of our most important responsibilities. This White Paper presents the Government's proposals for the reforms and developments which are needed to provide for the continuous improvement of child care into the next century.

The care of children is essentially the responsibility of parents. However, needs and pressures can arise which call for support, or even intervention, by public authorities to ensure that children enjoy a good standard of care, to protect them from harm, or to control offending behaviour. In these situations it is important for families to be supported and for authorities to work in partnership with parents.

Working closely with parents is important even when the interests of parents and children are not the same; but decisions need to be made within a clear structure of law and their implementation calls for professional knowledge and skills of a high order. The White Paper sets out proposals for improving legal procedures to safeguard the rights of children and families, particularly in situations where emergency action is being considered.

The law is an essential expression of society's values, defining the duties and responsibilities of various authorities concerned with the welfare of children, including those children who find themselves in trouble. Within that framework Scotland's unique system of children's hearings will continue to have a key role combining legal requirements, professional skills and the commonsense judgements of trained members of the community.

Special emphasis is placed on meeting the needs of children who are or have been in care, on preparing children in care for adult life and on supporting them after they have left care. The provision of services for children with disabilities is also given particular consideration. At the centre of the White Paper is the commitment to the individuality of each and every child. I am keenly aware of the need to listen to children, to find out their views and to take these into account when decisions are being made.

I believe that the proposals in this White Paper build on the great deal that has been achieved in the past and set a positive agenda for future progress. Some of our proposals require legislation while others can be achieved without it and are already being taken forward. All the arrangements and improvements described in this White Paper reflect my strong and continuing commitment to the development of child care services in Scotland for the benefit of all our children.



IAN LANG

1 *Social Trends and Child Care*

1.1 All laws and policies have to adapt over time to meet changing circumstances. Those which apply to children are no exception. This White Paper considers the changing needs of Scotland's children and young people and proposes a number of wide ranging improvements. It takes account of our better understanding of how best to provide care for children and of the lessons to be learned from the successes and the difficulties of existing arrangements. In line with the United Nations Convention on the Rights of the Child, children are generally defined for the purposes of this White Paper as being up to 18 years of age, but the term "young people" is also used, where appropriate, as an alternative for "children" and to describe people up to the age of 21. Similarly, for simplicity, the term "parents" is used throughout, but this should be taken to include lone parents, guardians, or other adults with some parental responsibility, exercising care for children.

CHANGING NEEDS

1.2 Throughout Europe children are affected by major social and demographic changes. Children now generally occupy a smaller proportion of the population, due in part to the falling birth rate but also to the increasing numbers of elderly people. By the year 2011 there will be approximately 44,000 fewer children in Scotland than in 1991.

1.3 Family structure is changing. In common with most other European countries, the proportion of children born in Scotland outwith marriage is increasing. In 1990 27% of births were to unmarried parents as compared with 10% in 1979. In 1990 8% of all babies born were to mothers under 20 years of age of whom 80% were unmarried.

1.4 The marriage rate has dropped, with marriage taking place later in a relationship and fewer marriages of couples under 20 years of age. There is now a likelihood of 1 in 4 of all Scottish marriages ending in divorce, and in half of these divorces one partner is likely to be under 21. Moreover, younger children are likely to be increasingly affected by divorce or separation: 24% of all children involved in divorce proceedings in 1991 were under five. Of all divorces, it is estimated that 1 in 8 is the second divorce for at least one of the partners. Thus, some of our children may have to cope with the emotional and other consequences of separation or divorce more than once.

1.5 Largely as a consequence of increasing divorce rates, the number of children in Scotland now living in one parent families has risen significantly. In 1980 44,000 children lived in families receiving one parent benefit; by 1991 the number had almost doubled to 87,000. One parent families now constitute 1 in 6 of all families in Scotland with dependent children and, not unexpectedly, most of these are headed by a lone female.

1.6 Lone mothers have been much less able to enter the labour market than married mothers, with implications for the level of income available to such

families. Unemployment has meant that there has been an increased number of children living in families on benefit. This has important implications for child care services and the need to protect children.

1.7 Women have long been the main providers of care for young people and children. However, their increasing involvement in all areas of life has implications for men, who now take a greater share of the responsibilities for providing care. The ways in which services are designed and provided need to give men's caring role greater recognition and support.

1.8 During the 1980s the number of pupils at secondary school in Scotland fell sharply though it is expected that by the year 2009 the number will be 10% above the current figure of around 295,000. In the course of the next decade, more pupils will be involved in the examination process and, because of both the higher staying on rate and the increasing numbers going on to higher education, they will be dependent on their families over a longer period of time.

1.9 The increasingly multi-cultural nature of Scotland presents all agencies with the challenge of meeting the varied needs of people with different backgrounds, beliefs, languages, expectations and difficulties.

1.10 The more traditional images of the family are being challenged by the very fact that many of our children now experience very diverse forms of family life as their parents cohabit, separate, marry and remarry. Increasingly, children are being asked to adjust to living in a family with one parent absent, usually the father, or to living with a step parent, again usually a stepfather. Despite these changes families remain and will remain the foundation of care for children and the development of young people. In this changing world families will need support in ensuring a consistently high quality of care.

REVIEWING EXPERIENCE AND LEARNING LESSONS

1.11 Experience and research over recent decades have emphasised further the importance of integrating with other services the particular services required for children with special needs, whether they be children in care, children at risk, children in trouble or children with disabilities. This White Paper therefore sets child care law and policy within the whole spectrum of services for children and addresses wider matters relating to the family.

1.12 In recognition of the changing circumstances described above, the Secretary of State appointed a Review Group in February 1988 to look at child care law in Scotland. Its remit was broadly to identify, in the light of developments since the implementation of the Social Work (Scotland) Act 1968, options for change and improvement in child care law which would simplify and improve arrangements for protecting children at risk, and care for children and families in need. The Review Group's Report was published in October 1990. The great majority of its recommendations have been accepted and provide one of the main thrusts underlying this White Paper. However, a number required to be reconsidered given the passage of time and the many recommendations arising from subsequent reports mentioned below.

1.13 The functions and accountability of reporters to children's panels were the subject of a review commissioned by The Scottish Office and conducted by Mr Alan Finlayson. The Report was published in August 1992 and its recommendations have to be considered in the light of the proposed reform of local government.

1.14 Two major public inquiries have looked into child protection and child care services. This White Paper sets out the changes the Government intend in the light of the recommendations of the Report of Lord Clyde's Inquiry into the Removal of Children from Orkney in February 1991 and the Report of Sheriff Kearney's Inquiry into Child Care Policies in Fife, both published in October 1992.

1.15 Careful regard has also been paid to the findings of the Review of Residential Child Care, "Another Kind of Home", carried out by the Chief Inspector of Social Work Services, Mr Angus Skinner, and its recommendations about the place of such care in the range of services for children, about planning child care services more effectively and the expectations which young people, children and parents should be able to have of the quality of care provided.

1.16 Besides these reports on aspects of child care, the Scottish Law Commission's Report on Family Law (Scot Law Com No 135, 1992) raises a number of matters which could logically be considered as part of the foundation of a new more integrated approach to public provision and regulation. While it will not be possible to create a Scottish code of child and family law in a single step, the Government intend to take on board a significant number of the Commission's proposals for new legislation. In particular the Government believe that, as recommended by the Commission, family law should give greater emphasis to the concept of parental responsibilities rather than parental rights and should stress that, even if they cannot live together, both parents normally have a parental role to play in their child's life. Furthermore, the Government accept that the law should recognise and respect the reasonable views of children in matters affecting their upbringing.

1.17 Adoption law is also under detailed review by the Government and views expressed during the extensive consultative process have helped inform the child care strategy proposed in this White Paper. The Government's proposals for amending adoption legislation and improving policy and practice are the subject of a consultation document issued in June.

1.18 Services for children and young people with disabilities have been improved over recent years, particularly in educational provision. Such children and their families have a varying range of needs for care and support. Indeed, little more than a generation ago, many children would have been admitted to hospital who are now cared for at home. Experience and research over recent decades has highlighted the need for supportive services and suggested how best to provide these. The Government see a need to continue improving and developing these services.

1.19 The emphasis on children's rights and needs and on the importance of working in partnership with families does not obviate the requirement to ensure

that young people who commit offences should be dealt with effectively. Young people have responsibilities as well as rights, and the provision of care services must not shy away from the need to set clear boundaries for young people in respect of their behaviour and the consequences of failing to respect the rights of others. The Government consider that there is a need to strengthen some of the ways in which these concerns are approached within the care system. It is important to ensure the provision of an effective service for young people who commit offences and to do so in ways which promote responsible self-control, thus preventing deterioration in behaviour and a need for further public intervention.

1.20 In making proposals for changes in child care law and policy, it is clearly very desirable to find out what children and young people themselves think and to listen to what they say. Views were sought informally through Who Cares? (a voluntary organisation providing a voice for children who have experienced being in care) and ChildLine about the general issues which concern children and young people. Their responses, and the views expressed by children during the review of residential child care, are reflected in the White Paper and will be drawn on in the preparation of guidance.

1.21 The reports mentioned above contained a total of 420 recommendations, the great majority of which have been accepted. In some cases the Secretary of State has already made this clear and is taking action. The Annex provides a guide to the areas where progress has been made. This White Paper concentrates on the main recommendations from the various reports not already dealt with in this way.

2 Rights, Responsibilities and Child Care Principles

2.1 While acknowledging the changing nature of society described in the first chapter, the Government believe that the family is of fundamental importance to our society, and are therefore committed to providing social welfare services designed to support and assist children *within* their families, so far as it is consistent with the children's welfare. This chapter describes the rights and responsibilities of children and their families; it also sets out the principles which should form the keystone of child care. Legislation, policy and practice all need to be founded on these clear principles.

2.2 Child care principles are not timeless or static. They do not exist in a vacuum and they need to reflect changes in society, changes in social values and a developing knowledge from research. There is a marked shift away from children being viewed as the property of their parents: parents do not "own" children. They should be valued as individuals in their own right whose wants and needs must be taken seriously. They have every right to a say in their care. Both parents have clear responsibilities for their children and the children's welfare is dependent upon each of their parents taking this responsibility seriously. In carrying out these important responsibilities parents also have rights and their views must be listened to as well.

PARENTAL RESPONSIBILITY

2.3 Public child care law assumes that parents should be free to care for their children without undue interference from the state. At the same time, the rights of children to express their views on decisions about their future, and to have those views taken into account, must also be recognised. Central to this philosophy is the principle that local authorities should assume responsibilities for children only to the extent necessary to give effect to the required degree of care. This applies every bit as much to voluntary care arrangements as to compulsory measures of care. For some children this will mean that the responsibility for their welfare will continue to rest primarily with the parents, but there will also be situations where the local authority will largely be fulfilling the responsibilities normally expected of a parent, particularly where the child is living away from home. In some circumstances it may be necessary for the local authority to assume full parental rights for the child. **The Government propose to change the law to require such transfers to be authorised by the courts.** Enabling the courts to consider applications for parental rights orders would allow parents clearer right to legal challenge. (The proposals are explained in paragraph 3.8.)

RIGHTS OF THE CHILD

2.4 One of the driving forces behind the movement to empower children has been the United Nations Convention on the Rights of the Child, which was ratified by the British Government in December 1991. The Convention contains over 50 articles that can be grouped into 3 broad categories: provision, protection and participation.

CHILD CARE PRINCIPLES

2.5 The Government believe that the positive development of child care should be based on clear principles. Those which follow incorporate the philosophy of the United Nations Convention on the Rights of the Child. They are also in keeping with the recommendations of the Child Care Law Review, Lord Clyde's Report, Sheriff Kearney's Report and the Review of Residential Child Care. They apply to all children and families who may need social work support.

Every child should be treated as an individual

2.6 Although some basic needs are universal, there can be a variety of ways of meeting them. Each child is unique. Consequently, discretion and flexibility are critical components in the implementation of policies, guidelines and procedures. It is not in the interests of individual children to be treated as "cases" or according to rigid rules.

2.7 There is great diversity in the patterns of family care and the broad range of needs which stem from a child's age, gender, race, culture, health and ability. The Government intend that all services should be planned and provided in ways which are sensitive to the cultural background of the people receiving the services and at the same time recognise the principle of individuality which is at the heart of the Government's approach to policy and law in child care. There is no one perfect way of caring for children.

Children have the right to express their views about any issues or decisions affecting or worrying them

2.8 The views and concerns of children should always be taken seriously and given due weight in reaching decisions. Child care policy should be based on listening to children.

Every effort should be made to preserve the child's family home and contacts

2.9 Children usually fare better if they experience family life in the care of their own birth parent(s). Authorities should make every effort to preserve the child's family home and contacts. A range of services should be available to sustain children safely in their family home through difficult periods.

2.10 However, sometimes the risks to a child at home are so great that reception into public care is the best option. Removing a child from the care of his or her birth parent(s) is not an action which should be taken lightly. The reception of a child into public care can carry risks to the child and this needs to be balanced with the risks associated with pursuing alternative action. If a child is received into care, changes of placement should be minimised as they can be disruptive to the child's development.

Parents should normally be responsible for the upbringing and care of their children

2.11 Parents should be expected and supported to fulfil their responsibilities to their children. If a child cannot live at home either temporarily or permanently, parents should be encouraged to remain as closely involved as is consistent with their child's welfare. Responding to the needs of parents and working in

partnership with them can be an effective and direct means of promoting the child's welfare.

2.12 Services to children and families should be delivered in partnership, with parents being kept fully informed and involved in the process.

Children, whoever they are and wherever they live, have the right to be protected from all forms of abuse, neglect and exploitation

2.13 All reasonable steps should be taken by authorities to prevent children within their area suffering any form of ill-treatment or neglect. The duty to provide any necessary protection must remain a top priority. Children in all settings may be at risk from trusted adults. Some children, including those with disabilities, may be especially vulnerable. Consequently heightened awareness and increased sensitivity must be developed in these areas.

Every child has the right to a positive sense of identity

2.14 This can be encouraged through respect for the child's culture and origins and the child being given appropriate information about his or her family background. All children also have the right to expect that any personal information will be handled sensitively and confidentially.

2.15 Those with responsibilities to care for children should create a climate where children can develop a secure sense of pride in self.

Any intervention in the life of a child or family should be on formally stated grounds, properly justified, in close consultation with all the relevant parties

2.16 Care should be taken to ensure that children and parents are fully aware of what is happening in any intervention by the state in their lives and are clearly informed of the timescale involved. The separation of children under 16 from their parents against the wishes of any of them should take place only when a competent authority determines that such a step is necessary and where the action is subject to clear legal procedures and open to legal challenge. The welfare of the child should be the foremost and most important factor in all action taken in relation to children, whether it takes the form of compulsory or voluntary measures of care.

Any intervention in the life of a child, including the provision of supportive services, should be based on collaboration between all the relevant agencies

2.17 All children are entitled to expect good health care and education. Local authorities have the responsibility to provide services and assistance for children and families which will promote their general welfare. Children have the right to expect that professionals, from social work, health, education, and other services will collaborate in a child-centred way by fulfilling their own role while understanding and respecting the contributions of others. It is most important to ensure that the efforts of all those working for children benefit children.

PRINCIPLES INTO PRACTICE

2.18 Principles do not stand alone. If they are to be applied for the benefit of children and their families they need a sound framework of law, clear policies and professional skills, supported and enhanced by thorough training. In the

complex area of child care, the rigid application of principles can be self-defeating. Every child must be treated as an individual and each situation dealt with in its unique circumstances. The application of apparently simple principles may be complicated in individual cases where there will be tensions between parent and child, between short and long term, between fact and suspicion and where there may be uncertainty about the true nature of the problem.

3 Services and Support for Children

3.1 In order to provide for the needs of all children in their areas it is necessary for local authorities to be able to draw on a wide range of services in a flexible and responsive manner. This chapter describes the full range of social work services and the way in which they can be offered, to meet the needs of children and families.

GENERAL WELFARE DUTY

3.2 Local authorities have various powers and duties. Section 12 of the Social Work (Scotland) Act 1968 lays on them a general duty to provide social welfare. Among other things it requires local authorities to consider the need to provide advice, guidance and assistance to reduce the likelihood of children being taken into care or referred to a children's hearing and to assist with rehabilitation after a period in care. The Child Care Law Review pointed out that these provisions are negative and out-of-date; they fail to reflect the positive promotion of children's welfare and imply that care and supervision requirements represent failure. In fact both can play a positive part in improving the lives of children and their families.

3.3 **The Government therefore propose to change this duty towards children, to enable local authorities to assist any child during his childhood or any young person under 18 where this seems necessary for his or her welfare.** This assistance will be directed to:

- supporting the care of the child in the community;
- helping to keep families together by providing assistance to the parents or others responsible for looking after the child; and
- providing advice, services and assistance for rehabilitation after a period in care.

This revised duty will be complemented by existing powers to provide services, and the full range of these services will be set out in guidance. This will provide the framework within which authorities can plan and provide their services to meet local needs and they will be free to develop services in innovative ways. The guidance will identify the services which call for contributions from education and health.

SUPPORT

3.4 Local authorities have a specific duty to care for any child whose parents are, for whatever reason, unable to provide proper accommodation, maintenance or upbringing. Because such care is often provided with parental agreement, it is commonly referred to as "voluntary" care, although children who have been orphaned or abandoned are also cared for under this power. Such care has developed over the years to offer essentially short-term support to families in a wide variety of circumstances. Experience has shown that timely use of such care services can often alleviate stress and prevent a longer term breakdown of the family unit at a later date.

3.5 The Government conclude that as a matter of good practice local authorities, when planning support care, should consider the suitability of all other support services and facilities available within the community before providing for the child's care needs away from home; they should discuss at the outset with the parents the nature and duration of the support needed. The Government also accept the recommendation in the Child Care Law Review that local authorities should ensure that the parents always have reasonable access. The extent to which the authority may make decisions concerning the care of the child on the parents' behalf, for example, on questions of medical treatment, should also be for agreement with parents.

COMPULSORY MEASURES OF CARE

3.6 Local authorities may also be required to intervene to ensure the well-being of a child. Implementing compulsory measures of care may be necessary because the parents are failing to look after or are abusing the child, or because the child is committing offences. The protection of children, children in trouble and the children's hearing system are all covered in subsequent chapters. Local authorities can provide for supervision of children at home or place them away from home, with foster carers or in residential establishments. Authorities may provide facilities at their own hand, or in collaboration with other authorities or agencies. The Government's proposals for supervision are dealt with in Chapter 7 on young people in trouble. Supervision is, of course, not confined to such children; it can be used as a response to a wide range of needs.

3.7 Local authorities are under a statutory duty to further the best interests of children in their care and to provide opportunities for their development. The Government intend to extend this duty, requiring authorities to take full account of the child's education and health needs. In addition, in an increasingly multi-cultural society it seems necessary to supplement the duty and make it more sensitive to different backgrounds. **The Government therefore propose to require local authorities as part of their duty to children in their care to have regard to religious persuasion, racial origin, cultural background and linguistic considerations in taking decisions or providing services for such children.**

ASSUMPTION OF PARENTAL RIGHTS

3.8 Local authorities are empowered to assume parental rights in order to help them provide for the long-term care of a child who is orphaned, abandoned or otherwise not receiving adequate parental care. Assumption of parental rights is undoubtedly a useful basis for planning the long-term future of a child in such a situation. But the current procedure is essentially administrative and the initiative lies with the local authorities; only if parents object can the issue be brought to court and, pending a hearing, parental rights and responsibilities remain with the local authority. The Government regard it as fairer and more equitable to require the local authority to seek the agreement of a court when acquiring parental rights. **Following recommendations of the Child Care Law Review the Government propose to introduce a Parental Rights Order, for which a local authority would have to apply to a court.** Before granting such an order the court should be satisfied that:

- the parents of the child are dead and he has no guardian, or
- each parent/guardian freely agrees to the making of an order, or
- the specific grounds in section 16(2)(a) - (e) of the Social Work (Scotland) Act 1968 exist for dispensing with the agreement of parent/guardian, and
- an order would be in the best interests of the child.

The court would be empowered to vary or discharge a parental rights order.

SCOPE OF SERVICES

3.9 Local authorities now have responsibility for child care services which meet a remarkably wide range of needs. These services include:

- day care for young children;
- prevention of neglect or abuse;
- protection of children from harm;
- supervision at home of children who are subject to compulsory measures of care because they have committed offences or need care and protection;
- provision of foster care for children who need the stability of alternative families in the community;
- provision of residential care (including secure accommodation) for children who need to live in a more controlled setting away from home;
- respite care for families to help them cope where their children require special care; and
- provision for children with various kinds of disabilities.

DAY CARE

3.10 Day care for children is a term which covers various services for both pre-school and older children. The primary role remains one of enhancing the development of young children but day care also contributes to a child's well-being by providing support and help to carers. After-school provision is a good example of this. Such schemes not only provide a safe environment for children whose parents may be at work but also enable children to develop a broad range of interests and adopt a positive approach to the use of leisure time.

3.11 In the past 10 years, the number of children attending nursery schools and classes has increased by 36 per cent to 45,000, representing 35 per cent of all 3 and 4 year olds in Scotland. In the same period, the number of day care places has increased by over 30 per cent to 63,000, in a variety of settings - nurseries, family centres, playgroups and with childminders. Voluntary organisations and accredited private individuals figure prominently in this area. It is estimated that over 70 per cent of all 3 and 4 year olds are now provided with some form of day care or nursery education.

3.12 Parents of young children need to be assured that the services used by their children are of good quality. This was the essential purpose behind Part X of the Children Act 1989 which established a new framework for regulating care services and schemes for children under the age of 8. Central guidance from The Scottish Office helped local authorities in Scotland to prepare to assume their revised powers of regulation in October 1991 and they subsequently

carried out the programmes of re-registration required under the Act. Authorities also have a duty to review and to report at least once every 3 years the services they provide for children under 8, as well as the services provided by others. This will not only allow authorities to assess their own services and those provided independently but it will also enable them to influence the coherent development in their area of services for young children. Their first reports covering the period to mid-October 1992 will provide the first overview of provision across the country.

3.13 Local authorities are major providers of services for young children, in terms of day care and nursery education. But the Government have in recent years strongly promoted a "mixed economy" to which the public sector, voluntary organisations, private companies and individuals have all contributed. This is a pattern which the Government intend to foster, and they have devoted considerable resources to support such voluntary organisations as the Scottish Pre-School Playgroup Association, as well as making available urban aid for local care schemes in areas of particular social need. They have also encouraged employers through the tax system to provide workplace care facilities and have introduced a new £45m grant scheme for the United Kingdom aimed at helping employers, voluntary organisations and schools to set up after-school and holiday-care schemes.

3.14 The various measures described have made a positive contribution to the development of children's services, offering parents greater opportunities to meet personal and social needs. Day care also fulfils an important preventive role by providing a range of resources from mutual self-help to parent-craft training and health education. This short or medium term intervention can serve in many instances to prevent the need for statutory intervention or reception into care at a later stage.

RESPIRE CARE

3.15 Respite care is an important part of the wide range of services which should be available to help parents. It is often seen as particularly relevant to helping children with handicaps or illnesses but it can have a more widespread application. It can allow the child's usual carers to continue willingly in that role, where the absence of support might precipitate breakdown of the arrangements. Respite should seldom be seen as the complete answer and it is not a substitute for a full and careful assessment of the needs of the child and the family. It is normally short-term and variable to the needs of different families. **However, the Government consider it necessary to prescribe a framework for provision and so ensure a consistency of approach by local authorities; the relevant regulations will be reviewed.**

3.16 Children with life-threatening conditions and their families can benefit particularly from respite care. Children's hospices, on the models established in England, have proved themselves an important provider of such care and the Government have accepted there is sufficient evidence of demand to justify at least one such facility in Scotland. This is a task which the voluntary sector is addressing with the full support of the Government.

LOOKING AFTER CHILDREN AWAY FROM HOME

3.17 While the services and support described above may meet the needs of some children and their families, other children will benefit from additional care outwith their family. This may be with another family or in a residential home or school. For some, this will be a short term requirement, but others may require substitute care for many years including most, if not all, of their childhood. Whilst it is very important that young people and children should not be in care any longer than is necessary, it is also important that their experience of care should be a beneficial one. The approach to the provision of care should flow from the principles outlined in Chapter 2.

3.18 Care provided should be of a good and consistent quality. Being in care should carry no stigma. Young people who have for some of their life been in care should be able to look back on that experience as a positive one and be able in adulthood to recognise that it offered opportunities and experiences which prepared them to cope better with adult life. Care should provide compensatory experiences to help young people deal with the difficulties which are the cause of their being in care. It is essential therefore that there should be clear care plans, subject to regular review.

3.19 The statutory duty of local authorities to review at no more than 6 monthly intervals children who are in their care ensures that children and those caring for them are involved in reviewing care plans regularly in the light of changing progress and circumstances. Many authorities carry out reviews more frequently than the minimum frequency indicated in legislation and this ensures flexibility in the care planning for the benefit of the child. **However, following the Child Care Law Review the Government propose to enhance the value of care reviews by prescribing their form and content in regulations.** The regulations will require that:

- the initial review should be within 6 weeks of reception into care, with a further review by 3 months and reviews at no more than 6 monthly intervals thereafter;
- children of 12 and over should have a statutory right of attendance;
- younger children's attendance should be discretionary, depending on their age and understanding;
- parents who have parental rights should be entitled to attend, subject to discretion for the local authorities to exclude a parent for the purpose of obtaining the child's views;
- local authorities should have a duty to ensure that the child's education and health needs are identified in care reviews.

FAMILY PLACEMENTS

3.20 Family placements are the preferred option of most young people and children in care. Fostering has always played a most important part in the provision of substitute care for children. Over recent decades new schemes have developed providing a greater range of foster placements with ordinary families undertaking the care of young people and children in a wide range of difficult circumstances. The Reports of the Orkney and Fife inquiries made a number of

recommendations about foster care. The Government will reflect these recommendations in revised policy and practice guidance. For example, it is important that foster families should be fully informed about the young people they are to care for, are involved in the planning of their care, and are well supported with guidance and practical assistance.

3.21 The role of foster carers has evolved and the demands and expectations have increased. The task is no longer simply to provide a caring and nurturing environment for a child. While this remains the primary contribution, foster parents are now often expected to observe and record a child's behaviour and note aspects of a child's development. They are regularly involved in child care reviews and children's hearings. For many carers their role is a much more explicit and contractual one of partnership, not only with the local authority, but also with parents. Increasingly, they have an important role in informing the planning for children.

3.22 Foster carers represent a precious resource on which local authorities can call to provide a range of care services. At present it is a resource which is in short supply in most areas and the Government accept the recommendation in the Orkney Report that the Social Work Services Group of The Scottish Office should take urgent steps to assist local social work departments in a positive initiative to increase their stock of foster carers. **They therefore intend to commission a study of patterns of supply and demand and the main requirements for improving the service. They will then prepare guidance on methods for improving recruitment and appraisal and for retaining and supporting foster parents.**

RESIDENTIAL CARE

3.23 In the past 2 decades policy and practice have combined with population changes to alter dramatically the use made of residential care. Generally young people in residential homes are rather older, and they represent a greater concentration of those with the more significant problems. The task facing the homes has become more demanding.

3.24 In recent years the quality of care provided in some residential settings has been questioned. The wide-ranging review of residential child care in Scotland commissioned by the Secretary of State found that the quality of care experienced by young people in many residential homes and schools needed to be improved. The quality of child care services is considered below.

3.25 Residential homes and schools can offer special advantages in providing care and education by bringing together special skills to help young people, children and parents and by offering flexibility and creativity, for instance, in meeting the social and educational needs of older children through independent living schemes. Furthermore, it should be possible to develop shared care with families, and provide them with a wide range of support.

3.26 Residential care, with or without education, will continue to meet important needs. Homes and schools need to be equipped to provide a good standard of care and education, looking after young people in a sensitive and

positive manner, not least because some young people in care will continue to choose residential care, in preference to family placement, and their choice should be respected.

3.27 Children entering residential care should have a clear understanding of what is involved. It is important that they should be aware of their rights and their responsibilities. The Government accept the recommendation in the review of residential child care that any agency providing residential care should prepare a statement or charter setting out the key points about the running of the home and that each child should receive a copy on, or preferably before, admission to the home. **The Government are keen to encourage the development of local charters of this type for children and young people entering residential care.**

3.28 Residential child care, with or without education, should be seen as part of a fully integrated child care strategy. **The Government will be monitoring the local authorities' child care plans described in paragraph 8.13 to ensure that this requirement is met.** Whilst family placement should be the preferred option for both short and long-term care for children under 12, the Government fully recognise that exceptionally some children under 12 will have their needs best met in a residential home or school. In these circumstances, the highest quality of care will be required. **The Government have concluded that all agencies providing residential care should review their methods of preparing and reviewing the statements of functions and objectives required by the Social Work (Residential Establishments - Child Care) (Scotland) Regulations 1987. The Inspectorate will review all statements in 1994 and report to the Secretary of State.**

3.29 It is essentially a management responsibility to improve the quality of the current provision of much residential child care. Following the review of residential child care, the Government have launched a far-reaching programme for quality improvement in collaboration with local authorities and voluntary organisations. The main elements are:

- higher targets for numbers of professionally qualified staff backed by specific grant;
- improved arrangements to ensure good educational provision for those in residential care;
- improved provision for in-service training;
- establishment of a centre for consultancy and development in residential child care;
- priority for capital replacement projects;
- improved standards of maintenance, repair and refurbishment;
- development of standards for evaluation of residential child care.

The report on residential child care contains in addition many detailed recommendations which have been accepted by the Government and welcomed by social work authorities. **Their implementation will be followed up by the Inspectorate.**

WELFARE OF CHILDREN LIVING AWAY FROM HOME

3.30 The welfare of children and young people who live away from home and who, for whatever reason, are not in close contact with their families is a matter of public concern. These children may be mentally handicapped and resident in long-stay hospital or in other establishments and may have little contact with either parent because of matrimonial disputes or other problems. The Child Care Law Review recommended a fail-safe procedure to assess the welfare of such children. The Government therefore propose that health or education establishments which accommodate children should be required to notify the local social work authority about any child who has not had, or is unlikely to have, contact with a parent or guardian for three months, so that the social work authority can assess the child's welfare needs and determine how his or her interests should be promoted while resident in the establishment. **A code of practice will be drawn up to ensure that the welfare of children staying away from home is promoted and monitored, and in particular to encourage close liaison among social work, health and education authorities.**

3.31 **The Government also accept the recommendation that a duty should be placed, within the Education (Scotland) Act 1980, on proprietors of independent schools to safeguard and promote the welfare of children accommodated there.** The Secretary of State will be responsible for ensuring that the duty is properly carried out. Powers will be extended to enable her Majesty's Inspectors of Schools to review the welfare of the children resident in independent schools in Scotland. Since most independent residential schools do not cater primarily for children with special needs, the frequency and extent of inspection required will normally be significantly less than is applied to children's homes which require to be registered with the social work authority.

RESIDENTIAL CARE RESOURCES

3.32 The Government recognise the resource implications arising from the recommendations outlined in paragraph 3.28 involving increased running costs, increased capital and increased training costs. Provision of £4m has been made within local authority grant-aided expenditure for meeting additional running costs in 1993-94. Since many of the buildings used in Scotland today as residential homes for young people and children are not suited to the job and the maintenance of the fabric of some homes has been badly neglected, the Government made available an additional £750,000 in 1992-93 for immediate improvements. The Government also agreed to allow residential homes, which have outstanding grant commitments, to retain the proceeds of the sale of redundant land if the proceeds can be used for suitable capital projects. Local authorities have been asked to give greater priority to the capital needs of residential children's homes within their capital programmes. **The Government have decided that from 1993-94 onwards this requirement to give greater priority should be reflected in the allocation to local authorities of capital consents.**

SECURE ACCOMMODATION

3.33 Secure accommodation is provided in a limited number of child care establishments, broadly speaking for children who are either a danger to themselves or to others. The provision of this accommodation is subject to regulations which require every establishment to be approved by the Secretary of State. In addition The Scottish Office has produced a code of practice for the care of children in these establishments, who may be placed by local authorities following supervision requirements from children's hearings or by the Secretary of State under sections 205 or 206 of the Criminal Justice (Scotland) Act 1975. A few children are held in these units on remand or transferred there on the authority of the Director of Social Work. Secure units are used frequently to avoid detention of young people in penal establishments, which is against the Secretary of State's policy.

3.34 Some of the most damaged young people, often with very difficult backgrounds, are placed in secure units. These youngsters pose serious demands not only for security, but for care, education and recreation. Existing secure beds are intensively used, but in the past 10 years significant changes have occurred, for example in an increasing use of short-term detention and in the numbers of girls who come into secure care. **Against this background and the need for education and recreation to provide positive influences on young people during their time in secure care, the Government have begun a review of secure accommodation which will be completed in spring 1994.**

3.35 The review will be based on the latest information on demand for, and use of, secure accommodation and on an inspection of establishments. It will assess the condition of existing provision, its use and the quality of care, including educational and recreational opportunities provided. **Following that review, the Government will prepare a programme of action designed to develop secure care of high quality to meet future needs for security, care and education as effectively as possible.**

AFTERCARE

3.36 The time when young people emerge from a period in care - whatever form it has taken - can be unsettling. They may emerge vulnerable and in need of support, particularly those of sixteen and seventeen who may move into a variety of situations - for example lodgings, private accommodation or a shared tenancy. A few may remain in foster placements or secure their own tenancy. However, many have had an interrupted education and as a result many have few, or no, qualifications. They may fail to obtain a training place or be unemployed. For them, the transition from care is particularly difficult and may lead to homelessness and sleeping rough.

3.37 All these young people require assistance for the transition to independent living - for example, help in getting accommodation and employment, and in budgeting and general support. The existing legislation does not adequately reflect their needs nor define the responsibilities of local authorities.

3.38 **The Government propose to accept the Child Care Law Review recommendation to place a specific duty on local authorities to advise and assist young people during any period they spend in care in order to prepare them for life when they leave care. They also propose to extend the existing duty of local authorities to provide assistance to young people under the age of 18 if they have been in care immediately before school leaving age. Local authorities will be given a duty to assist such young people up to and including age 18, and a power to assist such young people under the age of 21 who meet the criteria of eligibility and need.** This will have the effect of concentrating services on those who have recently left care, whose problems are greatest (the 16-18 year olds) while allowing a discretion to assist young people for an extended period, that is up until they become 21.

3.39 The Government acknowledge that homelessness is a very real threat for young people leaving care. As well as encouraging measures designed to prepare young people in care more effectively for the freedom and responsibilities of independent living the Government are pursuing initiatives to help tackle the problems of youth homelessness generally. Substantial mainstream resources have been made available through local authorities, Scottish Homes and the Urban Programme. Homelessness is one of the key issues which housing authorities have been asked to address in housing strategies and output targets, and Scottish Homes is implementing its policy statement on homelessness published in November 1992. In addition, the current government-funded Rooflessness Initiative focuses specifically on young single people sleeping rough or at risk of doing so.

3.40 The Scottish Office recently commissioned research from Glasgow University Centre for Housing Research into the particular role of social work services in tackling youth homelessness. The Report was published in February 1993 and The Scottish Office has since consulted widely on its findings. This will lead on to the production of guidance on good social work practice, including that in relation to young people formerly in care. **The Government will launch one or more demonstration projects in 1994 to develop means of reducing the risk and incidence of youth homelessness by bringing together all the relevant agencies - social work, housing, employment and social security - to tackle the problems in concert.**

ADOPTION

3.41 Adoption is the legal process by which children acquire a new set of legal relationships within a new family. Adoption services comprising planning, placement and counselling, are highly specialised but they are governed by principles of good child care and are part of the wider spectrum of child care services. Though they are aimed at achieving a completely different set of family relationships they are the outcome of planning for the best interests of the child.

3.42 Adoption services have been considered in the Review of Adoption Law, and proposals for changes in the law and practice have been canvassed in a consultation document which was issued by The Scottish Office in June. Decisions flowing from this will be announced separately.

KEY REQUIREMENTS FOR CHILD CARE SERVICES

3.43 This chapter has looked at the full range of child care services. The Government believe that all these services must respond positively to changing needs and maintain consistently high standards. The key features which require to be taken into account in looking after any child or young person (particularly those away from home) are as follows:-

Individuality and Development

Young people and children in care have the right to be treated as individuals who have their own unique relationships, experiences, strengths, needs and futures, irrespective of the needs of other residents. They should be prepared for adulthood and supported until they are fully independent.

Rights and Responsibilities

Young people, children and their parents should be given a clear statement of their rights and responsibilities. They should have a confidential means of making complaints. They should be involved in decisions affecting them and in the provision for their care. Their rights should be consistently respected.

Good Basic Care

Young people and children should be given a high standard of personal care. They should be offered new, varied and positive experiences of life and should be included in the wider community.

Education

Young people and children should be actively encouraged in all aspects of their education, vocational training or employment and offered career guidance. Their individual educational needs should be identified and met.

Health

Young people's and children's health needs should be carefully identified and met; they should be encouraged to avoid health risks and to develop a healthy life-style.

Partnerships with Parents

Young people and children in care should be cared for in ways which maximise opportunities for parents' continued involvement, and for care to be provided in partnership with parents, wherever this is in the interests of the child.

Child Centred Collaboration

Young people and children should be able to rely on a high quality of inter-disciplinary teamwork amongst the adults providing for their care, education and health needs.

A Feeling of Safety

Young people and children should feel safe and secure in any care setting.

4 *Children with Disabilities*

4.1 It is estimated that there are 33,000 children in Scotland with some level of disability. There are 9,500 children (including 170 under 5s) who are “recorded” as having special educational needs. Social provision for children with disabilities has progressed over the past 20 years but often in a piecemeal way. While services have developed they have continued to concentrate largely on the disability rather than on the child, and children’s needs are in some cases accommodated within services designed essentially for adult care, even though children with disabilities have more in common with other children because of their childhood than they do with adults with corresponding disabilities.

NEEDS OF CHILDREN AND THEIR FAMILIES

4.2 The bulk of care of children is given by families and not through outside services. Disability and chronic illness are not static situations and the ways in which families make adjustments and meet new demands are highly personal to them. Future service developments should therefore be based on closer partnership with parents and children with disabilities, recognising that some children need extra-ordinary care to live ordinary lives with their families. Support services need to be available at an early stage to assess needs before problems arise. There are times when support is especially critical, for example when serious disability is first diagnosed, when a child is about to start school or change schools, and when a young person is being prepared for the transition to adulthood and leaving school.

4.3 Many families would prefer services to reinforce their caring capacity and not to offer a substitute for it. Small amounts of support and help offered on a regular and flexible basis can often be more effective and less costly than larger blocks of care offered to avoid a crisis. Respite care is of paramount importance and to some parents is seen as a “life-line”. When well planned as part of a package of care, it is the essence of partnership with parents. It can be as little as a few hours, daytime relief, overnight stays, or longer periods suited to the child and to the family.

SERVICE DEVELOPMENTS

4.4 The demands upon and challenges to families with a child with disabilities call for a range of support services for such children, including day-time, domiciliary and residential provision, counselling, information services, child-minding, family-based respite and transport provision. Two priorities are: firstly, the more flexible provision of services for children under 5 and school leavers and, secondly, alternative care for children in long-stay hospitals. Where appropriate, services should be developed having regard to the particular vulnerability of some children with disabilities and their communication needs.

4.5 Concern has grown about the adverse effect which institutional care can have on children’s development. Over recent years there has been a considerable reduction in the number of children in long-stay hospitals and children’s homes.

The Government will give further impetus to this change by setting a target date for the discharge of all children from long-stay hospitals who do not require to be there for medical reasons.

4.6 The Government see the following steps as necessary to underpin positive development in the future:

- Policy planning for children with disabilities should be integrated into the new child care plans described in Chapter 8 and prepared in collaboration with education and housing departments, health boards, voluntary organisations and representatives of parents and carers. Many voluntary organisations have pioneered services for children with disabilities, and they have a valuable contribution to make to planning.
- Comprehensive assessment of children with disabilities, should be integrated into child care management and with assessments developed for community care. Assessments should be developed for all children with disabilities, if they need services to enable them to maximise their abilities to control and negotiate their future lives; children who are affected by serious illness or disability within their family should also be offered such assessment.
- Agencies should co-operate to produce needs-led assessments focusing on social, educational, housing, health and financial support; some complex situations require rapid and flexible responses by agencies to the needs of families, such as when a child has a terminal illness, or a parent has a deteriorating condition, such as AIDS.

CO-OPERATION BETWEEN SOCIAL WORK AND OTHER AGENCIES

4.7 In planning or providing services for children with disabilities co-operation between agencies is the keyword. Joint working by social workers with their health and education colleagues requires patterns of co-ordination to be agreed and supported by management. The developing structures for future needs assessments (under section 13 of the Disabled Persons (Services Consultation and Representation) Act 1986) can be extended for co-operation among agencies for all age groups.

CHILDREN AWAY FROM HOME

4.8 The importance of encouraging and allowing good parenting to continue are essential elements in any intervention with children. Prompt action is required where children with disabilities away from home in medical or educational establishments do not have regular contact with a parent or carer. The safeguards referred to in paragraphs 3.30 and 3.31 and the scope of the proposed code of practice will apply equally to the care of children with disabilities.

THE WAY AHEAD

4.9 The Government envisage a “seamless” service for children with disabilities and their families, founded on good working relationships and sound communication between staff in various agencies. This will depend on designated staff developing a sound skills base relevant to children and disability.

These skills will be developed through training, highlighting the understanding of how pain, fear, physical disfunction, the living environment and attitudes can affect a child's ability to live reasonably normally.

4.10 In order to foster the future development of services for children with disabilities the Government will introduce legislation to require local authorities to:

- **assess the social care needs of children with disabilities and their parents and carers when asked to do so;**
- **assess the social care needs of children adversely affected by disability in the family if requested to do so and;**
- **publish information about the services provided for children with disabilities.**

5 *The Protection of Children*

5.1 The protection of children from harm has emerged in recent years as a major priority for social work departments, working in collaboration with education, police, health and other services. Their involvement extends over preventative care (taking the form of day care, home-visiting or personal support) and compulsory supervision of children at home, foster care and residential care. Where questions of public intervention arise to protect children, the decisions required of professional staff are often complex and stressful, and the demands are most marked in situations where urgent action has to be authorised to prevent serious harm or even death.

5.2 It is not possible to establish absolutely whether child abuse is a growing social problem, but the increasing numbers of cases in the records of social work and reporters' departments do suggest that children are now much readier to speak out and professional staff are more keenly aware of the symptoms of abuse. A measure of the problem is the five-fold increase in referrals to reporters to children's panels on care and protection grounds from 1980 to 1990.

5.3 Abuse of children takes a number of forms. The standard categories for recording cases are:

- physical injury;
- sexual abuse;
- failure to thrive;
- emotional abuse, with severe effects on behaviour and development; and
- physical neglect, which threatens physical health or exposes the child to danger.

Of these physical injury is recognised as the most common form of harm. Sexual abuse, while accounting for a minority of cases, has shown marked growth in recent years. Most abuse is carried out by family members or friends, or occasionally by groups of people.

5.4 The Government have taken a number of steps in recent years to tackle more effectively the major problems created by child abuse in its various forms. Close co-operation has been encouraged between services and professions in confronting the often complex and difficult situations created by abuse - notably by production of guidance for services. Child Protection Committees have been identified as the means of co-ordinating and mobilising services in each area; the role of the Committees is still being developed from their crucial tasks of producing and monitoring joint procedural guidance and arranging joint training in child protection. A series of national meetings is to be held to plan how Committees can take forward their work and influence. A new system of child protection management information has been introduced, to produce more reliable information on child protection cases which will help local authorities to plan and control their manpower and other resources devoted to child protection.

5.5 In addition, the Government have highlighted the need for measures to prevent abuse by influencing perpetrators to bring their behaviour under closer management and control. A major research study has been commissioned to provide insights into the effective management of abusers and a pilot project to develop practice methods in managing young abusers has been established with substantial support from The Scottish Office. This area of prevention represents a major challenge to professional practice but, if success can be achieved, it holds out significant prospects for reducing abuse.

5.6 Effective child protection depends crucially on high quality professional practice by social workers and others. The Government have recognised the value of training to equip staff to make clear judgements in situations which are often complex and stressful. Support funding was provided to help Dundee University to establish child protection training for key staff throughout Scotland, and its output has had a marked effect on levels of skills and competence. In addition the specific grants introduced in 1992-93 to boost training by local authorities have also helped to raise standards of practice. This 70% grant enabled local authorities to spend an additional £1 million on child protection training in 1992-93 and the amount was doubled for 1993-94.

5.7 Guidance also has a major part to play in assisting professional staff to discharge their responsibilities for child protection effectively. Following the publication of the Orkney Inquiry Report the Government decided to commission a range of guidance, comprising:

- a revised and up-to-date version of existing guidance on inter-agency working;
- new practice guidance for social workers dealing with sexual abuse; and
- new guidance for police and social workers concerned with joint investigation and interviewing.

Work is now proceeding on all 3 aspects. The current Scottish Office publication "Effective Intervention", on inter-agency co-operation in dealing with child abuse, is being revised. The second element of guidance is being developed by a working party of Scottish Office and local authority social work officials. The third is being prepared by a joint working party chaired by The Scottish Office and comprising police, social work, health service and Crown Office staff. This guidance will take full account of the many recommendations of the Orkney and Fife Reports (which have already been drawn to the attention of the relevant agencies). **The Government see the 3 guidance documents as complementary and intend that they should be prepared for consultation by late 1993.**

EMERGENCY PROTECTION

5.8 Within child protection, the arrangements for protecting children from harm in emergencies have attracted much public attention in recent years. Following recommendations from the Child Care Law Review and the Fife and Orkney Inquiry Reports, the Government have carefully reviewed the need for changes in primary legislation, regulations and guidance in respect of the removal of children from home for their safety.

5.9 Under the Social Work (Scotland) Act 1968 local authorities have a clear duty to protect children from harm. They may discharge this duty in different ways: by co-operating with the family to prevent abuse, by persuading a suspected abuser to leave the family home, or in the most serious cases by seeking legal authority to remove a child from home. There were 1373 such authorisations in 1990.

5.10 Removal of a child from home is a particularly serious intervention in the life of a child and his or her family, a point emphasised by children and young people themselves. Equally, they acknowledge that this action could provide great relief. Following Lord Clyde's Report the Government consulted widely with organisations and individuals concerned with child protection. **After careful consideration the Government have decided to revise and reform the 1968 Act provisions, and to introduce associated regulations and guidance.** The changes will be based on:

- the child's right to protection from harm, where necessary by removal from its source;
- the parents' responsibilities for the child and the rights necessary for the exercise of those responsibilities;
- full justification and legal authority for removal and subsequent care of the child; and
- the opportunity for the child and parents to mount full legal challenge to removal.

5.11 One of the central legislative changes proposed is to specify that authorisation to remove a child can be given only in an emergency situation. As Lord Clyde noted the existing section 37(2) allows for excessive discretion about circumstances in which removal can be sought. He recommended a new form of order based on more stringent criteria. **A new child protection order (CPO) will be introduced.** It will allow removal of a child only where there is reasonable cause to believe that the child is likely to suffer significant harm and where immediate removal to a place of safety (or perhaps continued stay in, for example, a hospital) is necessary for his or her safety. An order would lapse if not used within 3 days.

5.12 The serious nature of removal justifies limiting the granting of a CPO to a sheriff. However, on occasions, in urban as well as rural areas, it may not be possible to find a sheriff at short notice. If a sheriff is not available, a JP may authorise removal, but that authorisation would have to be confirmed within 24 hours. The application for a CPO would have to be supported by such information as the sheriff required. In making the CPO the sheriff would have discretion to appoint a safeguarder to the child.

5.13 Though social workers and the police are normally involved in emergency protection, any person would be able to apply for a CPO. This would allow people on the spot to act to protect a child, when confronted with a real and serious emergency. This would be an additional safeguard for a child in a serious situation. The sheriff in granting the CPO would designate the person(s) - normally professional staff of a social work department - who would be authorised to act. The police would continue to be expressly empowered to

remove a child in an emergency but would require authorisation if it was necessary for them to continue keeping the child in a place of safety. Regulations will prescribe the general information which should support an application for a CPO.

5.14 The sheriff would be empowered on application to grant orders ancillary to a CPO, which would specify and regulate examinations, interviews, access, communication and disclosure of the child's whereabouts. This would clarify and regulate, in the child's interests, matters which are at present largely governed by local authority practices. Ancillary orders would be based on a judgement of the child's interests, recognising the parents' responsibilities and the duties of the local authority.

5.15 The law will be extended as Lord Clyde recommended to specify that when a child was removed from home the local authority would be under the same obligation to look after the child's welfare in terms of section 20 of the 1968 Act, as they are in the case of children in their care.

5.16 The way in which the new arrangements will operate needs to have regard to the respective roles of the court, the reporter and children's hearing. The Government have concluded that these arrangements should rest equally on:

- welfare, that is the consideration of the child's best interests and need for care; and
- justice, that is the right of children and parents to appeal in court with legal representation.

Welfare is at the heart of Scotland's well-established children's hearings system and the UN Convention on the Rights of the Child emphasises the importance of the child's welfare. Justice is reinforced by the European Convention of Human Rights, which emphasises rights through legal process. It is clearly necessary to ensure that any changes in legislation would satisfy the standards of both Conventions.

5.17 The Government have therefore decided that the new arrangements should be based on 2 key elements. These are:

- the availability to the child and the parents of a direct appeal to the sheriff against a CPO;
- early consideration by a children's hearing (on the first or exceptionally the second working day after removal) of the welfare of the child and of the need for a short extension to the CPO so that a second hearing could consider grounds for referral shortly thereafter.

5.18 After a child had been removed under a CPO:

- the child or parents could at any time apply to the sheriff for recall or variation of the CPO;
- the reporter would be empowered to discharge the CPO where he considered the criteria for the CPO were no longer met;
- if he decided not to discharge the CPO, the reporter would be required to arrange a children's hearing on the first working day or, if not practicable, on the second;

- if the hearing decided not to discharge the CPO, the hearing would extend it (and attach any conditions concerning the child's welfare);
- an appeal against this extension would be heard within 3 days;
- the sheriff would hear within 3 days of removal any appeal against the CPO and any subsequent appeal against its extension, in the light of the hearing held on the first working day;
- the reporter would be required to lay grounds of referral before a second hearing within 8 working days of the making of the CPO, giving the child and parents 4 working days notice of the grounds;
- if the grounds were not accepted, and pending a proof before the sheriff, the children's hearing could extend the CPO on at most 3 further occasions, with each extension up to 21 days and with the opportunity of an appeal to the sheriff against the extension;
- the sheriff in considering an appeal against a CPO or its extension would consider the full merits of the case and make a determination on the information laid before him.

The operation of these arrangements is broadly illustrated in the diagram which follows this chapter. They are designed to bring forward for earliest consideration, in keeping with the emergency situation, the need for the extension of the CPO and also the child's need for care. It should result in the cases of children who are removed being considered promptly, with provision for testing the need for the child to remain away from home and also the grounds of referral, before a sheriff.

EXCLUSION OF ABUSERS

5.19 Lord Clyde noted that there are clear advantages in protecting a child by excluding a suspected perpetrator from the home rather than removing the child, with the consequent distress and disruption. Exclusion is possible by agreement. It may be achieved where criminal charges are laid against an individual and where bail is granted, by the court imposing relevant conditions. Exclusions can also be implemented by order under the Matrimonial Homes (Family Protection) (Scotland) Act 1982. However, these courses have their limitations. **The Government have concluded that a new exclusion order under child care legislation would be a useful addition to the range of means to exclude a suspected abuser and they propose to make provision for such an order.** The Order would be made by a sheriff on application. The purpose and procedures would be similar to those for a CPO, with the requirement to satisfy the sheriff and the right to challenge the Order. The sheriff would specify such conditions to it as seemed suited to the situation. To supplement the introduction of such a provision it would be necessary to devise regulations related to the procedures and guidance on their application.

ASSESSMENT OF CHILDREN

5.20 In carrying out their duty of protection social workers should work wherever possible in co-operation with parents. However, there are occasions when parents refuse co-operation to the point where they deny social workers all access to their child. Faced by "the closed door", social workers cannot see a

child to assess his or her situation and decide whether he or she seems to be in need of care. It seems right and in the best interests of children that they should have statutory backing for securing access to a child. **The Government propose to provide for a new Assessment Order.** This would not be designed for use in emergencies but would secure access for social workers, where normal request and persuasion had failed, and there was continuing concern about the child. A local authority would be empowered to apply to a sheriff for such an order. He would grant the Order if persuaded that there was reasonable cause to suspect that the child was suffering or likely to suffer significant harm and that an assessment of the child was necessary to resolve these concerns. The Order would extend up to 7 days and would specify the nature of the assessment required.

CHILDREN SEEKING REFUGE

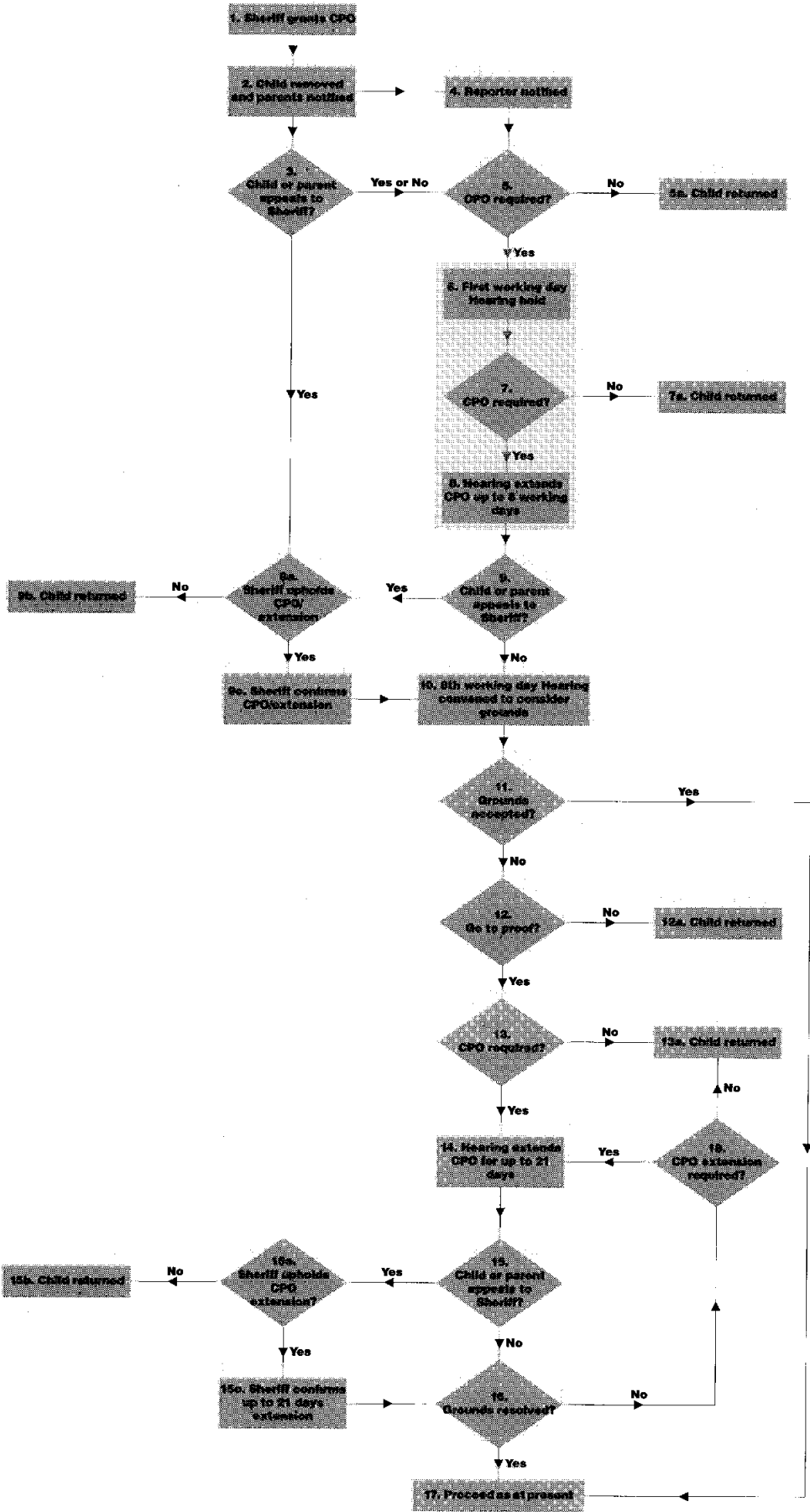
5.21 Some children run away from home or foster or residential care to escape pressures or problems from which they feel they need protection or “refuge”. At present the law imposes a criminal penalty for “harbouring” such young people which effectively prevents them from finding time and space in other places, in order to gather their thoughts and be clear about their future care. It is important that vulnerable young people should have the freedom to look to suitable places and people without bringing the threat of criminal proceedings upon those who can give them the short-term help they need. **The Government therefore intend to amend existing legislation on “harbouring”.**

5.22 In speaking to ChildLine and in other situations young people often express a wish to have somewhere to go in order to escape pressures and problems which have arisen at home or other places of care - “a refuge” is the expression commonly used. Essentially, what is wanted is a place to stay for a short time. Some local authorities and voluntary organisations provide short-stay places in the residential homes which they manage; and such places undoubtedly help young people at time of acute difficulty and stress. The need for short-stay places would be included in the guidance proposed to complement the revised welfare duty of local authorities towards children and such provision - whether provided by local authorities or voluntary organisations - should figure in the plans proposed in paragraph 8.13.

ACTION SUBSEQUENT TO LEGISLATIVE CHANGES

5.23 The considerable changes in legislation outlined in this chapter will have to be complemented by regulations of various kinds and supplemented by guidance to professional practitioners. There will also be consequences for the training of the various professional groups involved in decisions about child protection. **The Government will prepare a programme for the action needed under these headings as a result of the proposed legislative changes.**

PROPOSED EMERGENCY PROTECTION PROCEDURES



6 *Children's Hearings and the Reporter*

6.1 For more than 20 years Scotland has enjoyed a distinctive system of juvenile justice whose philosophy was established in the Kilbrandon Report of 1964. Essentially, it sees children who offend and those who require care and protection as equally deserving to be considered as children in need, and that these needs should determine any compulsory measures of care.

6.2 In the Scottish system decisions about intervention are always based on 2 key principles: that parents are responsible for the care of the child and that any public intervention should be on clearly stated criteria. The adjudication of evidence is separated from decisions on measures of care and children and their families participate in these decisions.

6.3 The main elements of the system are:

- the children's hearing, drawn from members of local children's panels who are appointed by the Secretary of State on the recommendation of children's panel advisory committees; the hearing decides on compulsory measures of care once grounds of referral have been accepted or found proved in court;
- the reporter, an official of the local authority, responsible for independently assessing the evidence underlying cases referred to him, carrying out any further investigations and for deciding whether they should be referred to a children's hearing;
- local authorities, responsible for providing information to reporters and hearings and for implementing the decisions of hearings for compulsory measures of care.

6.4 The whole system therefore combines, within a framework of law, the best interests of children, professional (mainly social work) skills and the judgement of trained panel members drawn from the community. Responsibility for its operation is shared between the Secretary of State and local authorities. Its effectiveness with children depends on close collaboration between reporters, hearings and the services responsible for implementing programmes of care.

6.5 The hearings and reporters have had to adapt to many significant changes since 1971 when the system began, notably a vastly increased number of referrals, assumption of responsibility for virtually all offence cases, following the Lord Advocate's Instruction of 1987 (which set out instructions to Chief Constables on the types of serious offences committed by children which should be dealt with in court) and coping with a major shift of emphasis of referrals towards care and protection cases. These now account for approximately a third of all referrals to the reporter and on the whole are rather more complex than offence cases.

6.6 The children's hearings system has a vital and continuing part to play at the centre of child care in Scotland. It has shown itself to be soundly based and at the same time capable of adapting to major changes. It has won the

confidence and support of judges, lawyers, social workers and other services as a sensitive and practical way of dealing with children's problems within the law.

6.7 However, children's hearings and reporters cannot stand still, and the system needs to be constantly assessed and improved, to ensure that it is operating as effectively as it can in meeting changing social needs. **The Government have decided to commission a major research project which will commence in 1993 and extend over 3 years, to assess the effectiveness of the children's hearings system and how it might be improved.** This will be the first study of the effectiveness of the system since it was introduced in 1971. The major elements of the study will be:

- decision-making by reporters and hearings;
- the impact of decisions on the care and future lives of children who have been subject to compulsory measures of care.

CHILDREN'S HEARINGS

6.8 Children's hearings bring to bear an essentially lay view on decisions about a child's future care. But it is a view which is bound to rest not only on the qualities and abilities of panel members but on knowledge and understanding. There is already a substantial and continuing commitment to training by all children's panel members who go through a rigorous selection procedure and training before they sit on a hearing. Continuing training is one of the conditions of panel membership. Training is provided by the combined efforts of suitably experienced panel members and of panel training organisers (financed by The Scottish Office). The Scottish Office is currently undertaking an audit of training offered to panel members. Strong support for panel training will be maintained, with increased emphasis on dealing with young offenders as outlined in Chapter 7.

6.9 **The Government have decided, in the light of recommendations from various reports, that the role of hearings should be strengthened, in order to promote the interests of children referred to them.** As a consequence of their responsibility for and experience in identifying measures of care it is important that panels should have a means of informing the decisions taken by local authorities on the policies and resources which underpin local services. As the Report of the Fife Inquiry recommended, one way of doing this is to allow panel representatives to participate in particular committees of local authorities and the Convention of Scottish Local Authorities (COSLA) has been asked to consider this issue.

6.10 In making decisions about treatment of a child, hearings should not only know about disposals which the local authority can provide or can arrange, they should have confidence in that provision. Where children are to be placed away from home in residential settings, hearings should be given full information of regimes to be followed by each child and the extent to which managers have discretion to vary them, should need or circumstances change. As the Fife Report recommended, hearings should be offered a range of options in the social work reports put to them. This will be the subject of separate advice to local authorities, panels and reporters.

6.11 **The Government intend to add to the powers of the hearings having accepted the recommendation of the Child Care Law Review that children's hearings should be empowered to prescribe in a supervision requirement a date for review.** At present the children's hearing has no power to set a specific date for the review of a supervision requirement though all requirements must be reviewed within one year. Other than this, it is for the local authority, and to a more limited extent for parents or children, to require a review. Yet it would clearly assist the hearing to assess how effective a supervision requirement was in meeting the interests of a child if it was able to set a date for review - especially where there were clear stages in the care plan for the child - and to consider what change or action was required. While this new power would apply to all types of cases appearing before the children's hearings it would be of particular value to hearings in keeping a closer eye on the outcome of supervision requirements imposed on young offenders.

6.12 **As indicated in Chapter 7, the Government also intend to clarify and tighten up the arrangements for home supervision requirements by the introduction of national standards, and hearings should as a result be able to monitor more closely the progress of children supervised at home.**

REPORTERS

6.13 The plans for local government reorganisation will create an increased number of local authorities. If the reporter service remained a local authority service, this would lead to a significant increase in the number of reporter's departments, including the number of small departments. **Against that background the Government have decided that the most advantageous way of ensuring consistency and high standards of practice is to establish a central service for Scotland as a whole under the management of a Chief Reporter.** It is proposed that a new body would be set up to administer the service. The body would appoint a Chief or Principal Reporter for Scotland. The Chief Reporter would have ultimate responsibility for the professional decisions of reporters although in practical terms the maximum number of decisions would be taken under delegation by individual reporters locally based, and as at present, working closely with the children's panel in their area. Reporters would retain independence in their present professional decision making. The new body would be responsible for the efficient running and management of the service.

6.14 The new arrangements would involve a transfer from local authorities and would be timed to coincide with local government reorganisation. Following consultations the preparations and timetable for the necessary managerial and other changes will be planned by a project team and will be progressed in close consultation with local authorities and the various hearings interests.

6.15 Meantime the Government intend to promote standards of reporter practice within the existing provisions governing the appointment and function of reporters. In particular it is proposed:

- to prescribe basic qualifications for reporters;
- to encourage systematic qualifying training for reporters, on a basis to be worked out in collaboration with COSLA; and
- to promote consistency of practice and procedures through a code of practice to be developed jointly by The Scottish Office and reporters which reflects the relevant recommendations of the Finlayson Report, the Child Care Law Review and the Fife and Orkney Inquiry Reports; the code will emphasise the need for reporters to maintain close communications with service agencies, particularly social work departments.

6.16 At present reporters are sometimes hampered in their preparation for proof hearings on grounds of referral - not only in offence but in care and protection cases - by the lack of any power to obtain evidence gathered by the police. It would greatly assist them prepare evidence for a proof hearing if they could command such evidence. **The Government have decided that reporters should be empowered to obtain from the police any information or articles which they have secured in the course of criminal investigations, subject only to the Procurator Fiscal's right to withhold evidence pending a criminal trial.**

PROCEDURES

6.17 The successful operation of the hearings system depends on proper observance of its procedural rules, in order to ensure that the welfare of the child is balanced by justice for the child and the parents. **The Government have decided to carry out a review of the Children's Hearings (Scotland) Rules 1986 following recommendations of the Child Care Law Review and to ensure that they take full account of the requirements of the European Convention of Human Rights.** The changes requiring consideration are the introduction of:

- a duty to oblige the reporter to notify child and parents of the right to see copies of reports to the hearings, subject only to where this would be against the interests of the child;
- a power for hearings to exclude parents from part or parts of hearings in order to hear the views of the child; and
- a power for the chairman of hearings to prevent interruptions or distractions caused by the attendance of third parties, so that the hearing can proceed in the best interests of the child.

SAFEGUARDERS

6.18 Safeguarders were introduced in 1985 under section 34A of the 1968 Act, to safeguard the interests of children in cases before children's hearings or the sheriff court, where there is or may be conflict between the interests of a child and those of his or her parents. So far, comparatively limited use has been made of safeguarders, but the Government see them as providing a valuable protection for the interests of the child, especially where there are or may be competing pressures within the family.

6.19 **The Government have decided to emphasise the current power of hearings and sheriffs as soon as cases come before them, to consider**

appointment of safeguarders in order to ensure that they play an active part in proceedings. In addition they have concluded that, as recommended by the Child Care Law Review:

- where appointed by hearings, safeguarders should be required to prepare reports in order to put an independent view of the case on record;
- where appointed by sheriffs, they should be required to attend proceedings in recognition of their party status, but without obligation to provide reports.

6.20 The development of the safeguarder's role and functions is seen as providing added benefits for children who come to children's hearings and courts. **The Secretary of State has therefore set in hand a review of the existing role and functions of safeguarders.** The aim is to identify prospects for the extension of their powers and use and to consider how the current arrangements for appointing, training and managing panels of safeguarders can be improved. It is important that they should be supported to discharge their essentially independent function of providing reports for hearings and sheriffs on children who may have reached particularly crucial stages in their lives and whose futures pose serious and complex personal problems.

7 Children and Young People in Trouble

7.1 Tackling juvenile crime is one of the most important tasks facing the Government. The Government are determined to deal firmly with offending behaviour, whilst continuing to provide positively for the education and development of young people who commit offences.

7.2 All children and young people need to have limits set for what is acceptable behaviour and what is not. Understanding these limits is an important part of growing up, living in a free society and meeting the responsibilities of citizenship. For some children understanding and accepting these limits can be difficult, and for a few the problems can become serious, both for themselves and for others. It is entirely consistent to control offending behaviour whilst at the same time to care for the individual child. The Social Work (Scotland) Act 1968 made it clear that care includes control, guidance and treatment. In practice, insufficient emphasis has sometimes been given to these aspects of care and supervision. The Government intend to bring about significant improvements in practice in this field.

7.3 Offending behaviour may occur at any age. In Scotland, the age of criminal responsibility starts from the age of 8. In 1990, young people in the age group 14-20 accounted for 26% of cases dealt with by the courts. 14-20 year olds, who represent some 11% of the total population aged 8 and over, probably commit between 20% and 40% of all crime which comes to the attention of the police. Young people thus account for a disproportionate amount of crime. Though many of their offences relate to petty crime such as vandalism and minor thieving, their victims are often distressed, frightened and angered by their experience. The best estimate is that the peak ages for offending are 18 and 19. However, even at the age of 16, a majority of convicted offenders have had previous contact with the criminal justice system or the children's hearings system and by the age of 20 only a fifth of offenders are first timers. It seems likely therefore that the peak age of recruitment to criminal activity occurs earlier, perhaps at 14 or 15; some of course start offending much earlier. In any effort to reduce the total amount of crime, action must focus sharply on young offenders. It is also necessary to look at all the factors which could contribute to juvenile crime.

TRUANCY AND ABSCONDING

7.4 Persistent truancy from school is associated with crime. In any attempt to reduce criminal activity by young people still at school, reduction in truancy should be a priority. Following a consultation exercise which was carried out in 1991 the Government have taken several steps to address the issue of truancy in Scottish schools. These include new regulations coming into effect at the start of August 1993 which will require education authorities and schools to record attendance and truancy rates and to publish these in school handbooks from school session 1994-95. This will provide, for the first time, comprehensive information on the extent of truancy in Scottish schools.

7.5 The Government have also commissioned and made public a number of studies of truancy. These have addressed several issues including, for instance, the link between persistent truancy and juvenile delinquency. Further reports are planned and guidance has been given making clear the importance of involving parents in measures to tackle truancy. Truancy may be a problem which is a sign of wider difficulties within a family. Even if offending does not take place while the child is truanting from school, the problems which arise from poor school performance may make a child less ready to keep the rules of the wider community. For these reasons, the Child Care Law Review took the view that truancy should continue to be a ground for referral to a children's hearing. They also recommended that children's hearings should have access to the full range of local authority resources for children who reject normal schooling. **The Government accept these recommendations and expect close co-operation between, in particular, education and social work departments in the provision of services for those who do not attend school. The Government will issue fresh guidance on the need for positive co-operation in this field.**

7.6 The reduction of absconding from residential establishments is also regarded as a high priority. Absconding interrupts regimes of care and control designed to help the rehabilitation of young people, it places young people at risk and it can provide the opportunity for some of them to commit offences - especially if they have a previous history of offending. A review of procedures has already been carried out by the Absconding Working Party which was set up under the Chairmanship of the Social Work Services Group in co-operation with social work departments, the police and heads of establishments to devise a national programme which would reduce both the incidence of absconding and the associated management problems. Work is now in hand to assess the way in which the arrangements have operated. **The Government will consider whether any further measures are required. The Government also accept the recommendation in the report on residential child care that local authority managers and inspection units should routinely gather information on absconding rates from residential homes and schools and investigate patterns, causes and solutions based on the recommendations of the Absconding Working Party.**

YOUNG OFFENDERS AND CHILDREN'S HEARINGS: STRENGTHENING THE HEARINGS

7.7 Where children do offend and come to the attention of the police, the most serious cases will, under the Lord Advocate's instructions of 1987, be dealt with by the courts. The vast majority of offenders under 16, however, are referred to the reporter to the children's panel. As was indicated in Chapter 6 an important part of the Government's strategy is to strengthen the children's hearings; this strengthening has particular significance for dealing with young offenders.

7.8 Tackling offending among young people is a central part of tackling crime as a whole and the children's hearing has a vital role within this process. The children's hearing has a number of key features. It comprises 3 people from the regional children's panel which is recruited by the Secretary of State from a

wide range of people who are broadly representative of the community. Most importantly, when a child or young person appears before a hearing his or her parents are also required to attend so that the whole family is involved in confronting and discussing the problem. This is how the hearing arrives at its decision on what steps to take. The involvement of parents is an essential and important part of the hearings system.

7.9 The Government consider that the children's hearings system, with its emphasis on community and parental involvement, its wide-ranging powers and, in the reporter, its own official to co-ordinate investigations, is well placed to continue its important role. In dealing with offenders children's hearings must look beyond the grounds of referral (the offence, if that is the ground), to attempt to find the underlying causes and decide what action is needed to address them. The Government propose to build on these strengths of the hearings system.

7.10 First, the Government intend that children's hearing members should be well equipped by their training to deal with children who offend. Added emphasis will be given in training on how to deal with young offenders who appear before children's hearings. Added emphasis will also be given to this in the training of reporters.

7.11 Second, the Government intend to add to the powers of the hearings. As indicated in Chapter 6 the Government have decided to accept the recommendation of the Child Care Law Review that children's hearings should be empowered to prescribe in a supervision requirement a date for its review. With a young offender, the hearing may want to know more quickly or more frequently how well he or she is responding to the supervision of the social work department so that they can consider whether any further action is needed. While the new power to prescribe in a supervision requirement a date for its review will apply to all types of cases appearing before the children's hearings, it will be of particular value to hearings in enabling them to keep a closer eye on the outcome of supervision requirements imposed on young offenders. The ability to review its decisions regularly is one of the strengths of the hearings system and the Government believe that this additional power will enable it to do this more effectively.

7.12 Third, the Government intend to clarify and strengthen the arrangements for home supervision requirements so that all those concerned - the child, the parents, the hearing and the local authority - all know what to expect of the arrangements. The great majority of those who appear before children's hearings and receive compulsory measures of care are put on home supervision, with the supervision carried out by a social worker of the local authority social work department. The practice and objectives of this were set out in guidance issued by the Social Work Services Group to all authorities in 1986. **The Government have decided that national objectives and standards for home supervision should be drawn up to ensure consistency of good practice within a common framework throughout Scotland.**

7.13 The hearings already have powers under section 44 of the Social Work (Scotland) Act 1968 to attach conditions to any supervision requirement they may impose, including access where it appears necessary in the interests of the child to modify a presumption of reasonable access. It is not necessary to extend these powers but the development of national standards will enable them to be more focused to address the behaviour of the child and clarify the nature of the supervision requirement imposed. **In particular the Government intend to develop contracts or agreements to which the young person and his parents and the social work department would all be party.** They would reflect strongly the continuing responsibility of the parents for the young person or child. Wherever appropriate, a contract or agreement consisting of a clear set of undertakings will be the outcome of the hearing and the basis on which the hearing and the social work department will assess the progress and success of the supervision requirement. This will complement and enhance the existing powers which hearings have to impose conditions on the child, by ensuring parental involvement in a contract or agreement carefully related to a care plan designed to tackle the causes of the offending behaviour, as well as clearly addressing the behaviour itself.

7.14 The contract would be linked to the statement of reasons for the panel's decision so that the child and parent were clear about the basis for it. The contract or agreement would set out:

- the purpose and specific issues to be addressed through supervision with the child and family;
- the proposed methods by which the supervisor (and others) will approach these issues;
- what the parents undertake to do;
- what the child undertakes to do;
- the timescale for the plan; and
- the process for reviewing progress.

7.15 Social work intervention which focuses on the child as the person receiving supervision must also seek to improve the support and care which the parents can offer in the raising of their own family. Contracts might therefore usefully spell out what parents will do for their child's development, for example, their involvement in shared activities. **The Government will develop new guidance to children's hearings, reporters and social work departments on the form, content and use of contracts.**

7.16 **Lastly, in keeping with the proposals in Chapter 6 the level of information provided to the hearings will be improved.** When considering the best course for a child, a hearing needs to know what the alternatives are and the nature of the facilities on offer. The professional responsibility of social workers is to provide a sound assessment of the child's situation and needs and a reasoned consideration of the relevant alternatives for care. Comprehensive information about an identified resource and the reasons for the recommendation for it should be clearly set out. For instance, if a residential school is being suggested, panel members need to know whether the child would be at the school seven days a week and, if returning home at

weekends, what arrangements would be made to supervise the child during that period. Panel members, through their local training, should be familiar with the available local facilities. Local authorities should ensure that panel members always have available to them the statements of functions and objectives of any residential home or school which they are considering. This will give information about the facilities and regime and enable panel members to reach well informed decisions on the future of a child.

PERSISTENT YOUNG OFFENDERS

7.17 Many young people commit occasional minor offences. Most youngsters quickly stop such behaviour as they mature, but there is in every major area of population a small group of young offenders who account for a disproportionate number of offences. These young people are generally well known to the police and reporters to children's hearings. Some of these young people do not respond to normal supervision but carry on offending and often cause trouble to neighbourhoods out of all proportion to their numbers. The Government are determined that this problem should be tackled effectively. The children's hearings need to have available to them a full and effective range of resources for this purpose.

7.18 The children's hearings already have secure accommodation available to them for the most serious cases. There are at present 7 secure units in Scotland providing a total of 84 beds. Each is associated with the provision of open beds in non-secure conditions. Three of the 7 are small units attached to larger children's homes and are used for short-term stay. Another one has the capacity to accommodate young people for up to 6 months. The remaining 3 units (each comprising 25 secure beds) are designed to cater for young people for rather longer periods.

7.19 The occupation rates of secure accommodation are fairly high at some 90%. The costs of such accommodation are substantial. In recent years there have been shifts to more emergency and unplanned admissions and towards more short-term placements, with an increasing number of girls detained. The availability of secure accommodation is one part in the range of facilities available to children's hearings for the most difficult young people. As mentioned in paragraph 3.34, the Secretary of State has asked the Chief Inspector of Social Work Services to review secure accommodation in order to ensure that these facilities are available to the level and of the standard required by the hearings and this review will be completed by spring 1994.

7.20 However, secure accommodation is reserved for a very small number of offenders where the need for such control is essential. For the great majority of offenders, other forms of care and of supervision in the community itself are more appropriate. **The Government consider that what is required for the future is the development of a wider and more imaginative range of residential and community provision.**

7.21 Residential schools play an important part in the overall provision for young people and children in trouble. Whilst there is no need to expand this provision it should be strengthened in the terms of the standards set out in

Chapter 3. **The Government consider that there is a requirement for residential schools to adjust their provision to focus more on the needs of the young people throughout the year and not solely during school term periods.**

7.22 Residential staff must be well supported if they are to carry out effectively their challenging responsibilities. In addition to the steps which have already been taken a working group has been formed under the chairmanship of the Chief Inspector to review guidance on sanctions and control in residential homes (including secure accommodation) following consultation on the draft guidance contained in the review of residential child care. **The Government will issue new guidance by the end of 1993.**

7.23 For community services more effective provision will be part of the development of national standards for home supervision. These will be based on the best of existing good practice and will establish, for the use of both panel members and social workers clear expectations of what can be achieved. Effective supervision in the community is also needed for those whose persistent offending make them a nuisance to the neighbourhoods in which they live or whose disturbed behaviour makes them a serious risk to themselves and others. More intensive supervision arrangements are required for a small number of young people and these arrangements should be developed from existing intermediate treatment and groupwork projects and the establishment of new ones so that the resource is available at least in each major urban area. Intensive supervision arrangements should also involve more direct work with individual young people focused on their offending behaviour and this should be individually tailored within the contract of undertakings considered and reviewed by the hearing.

7.24 The voluntary sector has a very important part to play in these developments. It is ideally placed to innovate and is already making an important contribution to the development of new approaches in this field. **The Government will continue to support voluntary sector initiatives through section 10 of the Social Work (Scotland) Act 1968.** Over the last 3 years such projects have included those run by the Save the Children Fund, Barnardo's, and National Children's Home, all aimed at effective and imaginative ways of dealing with young offenders so as to reduce their offending at a critical stage in their lives.

7.25 When a child shows a tendency to commit offences firm limits should be set and controls established as soon as possible. Hearings and social work departments should try to identify at an early stage those young people whose behaviour indicates that they are seriously failing to develop normal personal and social controls. In planning and providing supervision for these children and working with their families, particular attention should be given to learning practical skills to address family difficulties. Examples include social skills training, behavioural change activities, task-focused exercises, communication skills, and discipline skills for parents.

7.26 **The Government consider that there is considerable scope for improved local multi-agency collaboration in providing effective**

services for children who present especial problems in the development of normal personal self-control. No agency – school, social work, psychological services or police – is solely responsible, nor does any hold all the answers. The combined resources of social work, education (including community education) and, where appropriate, local child psychiatric and psychological services should be available.

7.27 The Government expect the new child care plans to describe existing provision, to outline proposed developments for services in respect of young offenders and to say in particular how the agencies involved are concentrating their resources to increase their impact on this group. In drawing up these plans authorities should address the provision of services across the divide between the hearings and adult courts, since 16 and 17 year olds may still be on supervision or referred by the court to the hearing for advice.

BEYOND THE HEARINGS

7.28 Young offenders who are subject to supervision requirements normally have them terminated before their 16th birthday. There is legal provision for the extension of supervision requirements to the age of 18 but in practice they are seldom retained, mainly because of the view that local authorities do not have resources available to provide effective measures of care. The courts are seen to have a better range of disposals to hand, particularly since the introduction of the wider range of community penalties, including community service for offenders. The provisions of the Criminal Procedure (Scotland) Act 1975 also makes it competent for children's hearings to deal with young offenders beyond the age of 16 but in practice this power is seldom used either. As a rule, therefore, virtually all young people over 16 who offend are dealt with under the criminal justice system. Some are considered and dealt with by procurators fiscal through alternatives to prosecution. Such alternatives include written and personal warnings, fixed financial penalties covering a wide range of less serious offences and diversion to a particular agency, which can offer help to the offender.

7.29 By virtue of the seriousness of their offences and their maturity, many young people should no doubt face the full rigour of prosecution and the sanctions which follow on a guilty verdict. However, there are also among this group young offenders who are immature and for whom a programme of care and supervision under existing powers through the hearings system would be a more effective way of changing their behaviour and reducing the risk of future offending. While it would not be realistic to expect children's hearings to deal with the full range of offending after the age of 16, there is scope for them to expand their role within existing powers, provided appropriate resources are developed to back this up. For example, courts could make greater use of the power to remit certain young people to children's hearings, and the supervision requirements of any child who had come to the attention of the hearing could be extended beyond the age of 16, where appropriate. The voluntary sector projects described above will contribute to the development of services in this field. **The Government will require all social work authorities, in**

developing their strategic plans for offender services, to pay particular attention to services aimed at young offenders.

RESEARCH

7.30 The further development of services in this area will be informed by the major research project which The Scottish Office is setting in hand into the whole operation of the children's hearings system. A significant part of this research will be concentrated on children who are offenders through the study of a cohort of young offenders.

8 Improving the Quality of Child Care

8.1 This White Paper describes the action which the Government are taking to improve child care across a wide range of services, including those for child protection, children with disabilities, children who offend and in the organisation of the children's hearings system. Underlying all of this action is a commitment to continuous improvement in the provision of services for children and young people and their families.

8.2 These commitments will be pursued in 4 ways. Firstly, by ensuring that all those involved pay careful attention to the views of those receiving the services, particularly children; secondly, by defining, assessing and reviewing the standards achieved and developing new standards; thirdly, by encouraging innovation and initiative in the development of new service approaches; and, fourthly, by taking additional steps to safeguard children's interests.

LISTENING TO CHILDREN

8.3 The Government place great importance on listening to the views of those receiving services, including young people themselves. The Government accept the recommendation in the review of residential child care that each authority should consider supporting the development of "Who Cares?" appropriate for its area. **The Scottish Office will fund "Who Cares?" nationally, subject to a review every 3 years.** This will help develop an organisation which provides a voice for young people who are in care or have had experience of being in care.

COMPLAINTS PROCEDURES

8.4 All local authorities have established complaints procedures in line with the Government's requirements. It is known that young people, especially those in residential care, may be reluctant to make complaints for a variety of reasons. Young people need to be able to make their complaints in confidence and to someone independent from the residential home. Some agencies have issued telephone numbers, and ChildLine offers a useful service. In addition, as recommended in the report on residential child care, any child in residential care should be able to make a private telephone call. **The Government accept the recommendations of the residential child care review on the handling of complaints and guidance will be issued on this and other aspects of residential child care.** The complaints procedure itself is a useful mechanism for the monitoring of services generally and authorities are encouraged to make full use of it in this way.

RESEARCH

8.5 The Social Work Services Group of The Scottish Office support a programme of research into child care and priority has consistently been given to child care issues, aspects of practice in fostering and adoption and to child protection. Research has been conducted on policies and systems for child care

reviews in social work departments and work is currently being undertaken on a study of the career patterns of children in local authority care. In recent years the research programme has addressed a number of aspects of fostering and adoption. Studies about permanency planning in 2 Scottish regions and an overview of research on adoption practice have been completed. Inter-agency responses to child protection have been evaluated and recent work has focused on joint police/social work child abuse investigation teams as well as on the duties of Area Child Protection Committees.

8.6 Studies of child protection have been concerned with physical and sexual abuse as well as with the effective management of child sexual abusers. These have contributed to the development of a growing body of knowledge on this subject. Research has been completed on police and social work management of cases of child sexual abuse which occurred in the family. The characteristics, motivations and perceptions of known child sex abusers in Scotland are being investigated.

8.7 Priorities for future research include evaluations of approaches to child care and assessments of services directed towards making children safe. There will be an examination of the way in which local authorities in Scotland are implementing those provisions of the 1989 Children Act which are concerned with child minding, day care and education services for children under 8. Social Work Services Group has just announced a major programme of research into the operation of the children's hearings system. The detailed processes of the system's operation will be studied and its impact on children's lives described.

MANAGEMENT

8.8 The Government accept Lord Clyde's recommendations that training in management skills needs to be extended. **They intend to improve the management of child care services by increasing training opportunities for managers, by more clearly specifying the management and professional functions and by looking to increase devolution of managerial responsibility, so that decisions are taken as near to those receiving the service as possible.** Management skills of this type have to be seen as complementing and supporting the delivery of high quality services. New management training courses for social work staff have already been established and the Government's specific grant for training has extended authorities' ability to take up these opportunities. Additional management training will be promoted so that it is accessible to staff across Scotland in rural as well as urban areas. Joint management training initiatives with other disciplines, notably health service managers, will also be further developed.

TRAINING

8.9 The provision of good quality, effective services to meet the welfare needs of children requires a high level and wide range of knowledge and skills. They also require to be effectively managed. The Government recognise the need to ensure that knowledge and skills are available at the required level, in sufficient depth and in the right places; training and staff development are of fundamental importance in this context.

8.10 Training should be available on a continuing basis to ensure staff have the training appropriate to the post they hold and are able to keep up-to-date with service developments and research findings. A training continuum is being put in place throughout Scotland. This recognises the need for a range of training to meet the differing requirements of staff carrying out tasks within the wide field of child care. This should ensure the availability of the vocational, qualifying and post-qualifying training to meet the needs within the children's services. The Government is supporting the establishment and maintenance of the continuum of training in several ways. In 1993-94, specific grant to local authorities for training has been doubled to £1.4m for child protection and £1.4m for residential child care. This grant supports a total expenditure in these areas of training of £4m. Grant to voluntary agencies includes the support of training initiatives and payment to the Central Council for Education and Training in Social Work (CCETSW), for assistance with the secondment of staff to professional qualifying training. CCETSW is responsible for the promotion, accreditation and maintenance of quality of training and Scottish Office grant of £5.2m enables it to carry out this work. A Scottish Office grant of £90,000 to Dundee University has also ensured the availability of post-qualifying training in child protection work. Other initiatives to implement the recommendations of the review of residential child care will be pursued during 1993-94, in further recognition of the priority of training for residential child care staff.

8.11 Targets have been set for training in residential child care. They are:

- *by 1994*, all newly appointed staff are to receive 2 weeks induction training within 3 months of taking up post;
- *by 1995*, 20% of residential care staff are to hold the Diploma in Social Work or its equivalent, and 40% of staff are to achieve the equivalent of the Scottish Vocational Qualification level 3/HNC in Social Care;
- *by 1997*, 30% of residential care staff are to hold the Diploma in Social Work or its equivalent, and 60% of residential care staff are to achieve the Scottish Vocational Qualification level 3/HNC in Social Care.

8.12 In child protection, it is expected that 70% of staff will have taken up training to meet their identified training needs and that by 1997, 90% of staff will have done so, recognising that most staff will require to be involved in rolling programmes to ensure their skill levels are developed and that they remain up-to-date in all aspects of their responsibilities. Authorities will be required to provide information on the progress towards these targets and the Government will publish an annual review of progress until the targets are reached. A new strategy for social work training in Scotland will be published in spring 1994.

STRATEGIC PLANNING

8.13 **At a strategic level the Government will introduce a new requirement on local authorities to publish plans in relation to child care services.** The plans will be:

- a clear appraisal of the strengths and weaknesses of current services;
- an assessment of future needs;
- an estimate of likely available resources;
- a statement of strategic objectives for service development; and
- a review of innovative developments.

8.14 The plans will cover a 3 year period and will be rolled forward annually. They will reflect consultation with education, housing, health, police, the children's panel and the voluntary sector. Consultation with local and national organisations representing children or families using the services will also be required. The plans should be succinct, and authoritative, with targets and timetables. Summaries of the plans should be widely published. Children and families should be informed of what services are available.

INSPECTION

8.15 Inspection will play an important part in ensuring that a good standard of service is provided. Local inspection units already have responsibility for inspecting all children's homes regularly, thus implementing the recommendation of the Child Care Law Review. **The Government intend that the independence of these inspection units should be strengthened and that, in addition to those expert in child care, more lay people should be involved in their work.** Inspection units will be encouraged to extend their responsibilities beyond residential homes as resources allow. They will be expected to target service areas where there are reasons for concern.

8.16 Effective inspection depends on the development of appropriate standards to inspect against. Local accountability is important, but standards and the way they are measured should be generally comparable across the country. Agencies should be pooling their resources and approaches to ensure that they, and all of Scotland, can benefit from systems which uncover abuses in provision, promote consistency in standards and spread knowledge of good practice. **The Social Work Services Inspectorate, in consultation with local agencies, will encourage the development of standards for application on a national basis so that standards achieved at both a local and national level can be monitored and made known publicly.** In particular, the Government accept that such standards should be developed for residential child care. Lay people will be increasingly involved in the work of inspection, both locally and nationally. Local inspection units will be required to involve young people and their parents as key people with important contributions to make in conducting any inspection. **The Social Work Services Inspectorate will also involve young people in its inspection work as lay inspectors with their own special contribution to make.**

8.17 **The Secretary of State's powers of inspection will be extended to include powers to interview staff, managers and customers, and to examine policies and other documents.** This will provide an effective base for extending the role of the Social Work Services Inspectorate and will secure a national overview of social work in Scotland through which consistency of good practice will be encouraged.

CONCLUSION

8.18 This White Paper outlines the Government's decisions for change and reform across the range of child care services. These decisions not only respond to recommendations made in a number of important reports which have appeared since late 1990, they are designed to provide a coherent programme for development, based on recognition of the responsibilities of parents, the rights of children and clear principles for the care of children. In providing for changes in legislation, regulations and guidance, the Government are seeking to make child care more sensitive to the needs of children and their families and to provide for the proper exercise of rights - including the right of the child to be heard.

Annex: Action already taken on Reports

1. As noted in paragraph 1.21 action has already been taken on the recommendations made in recent reports, especially those following the Orkney and Fife Inquiries. While this Annex does not attempt to deal with every individual recommendation, it describes some of the main issues and the way in which they have been taken forward.

CHILD CARE PRACTICE

2. Child care practice was addressed in some detail in Sheriff Kearney's Report. The Scottish Office is at present at work on revised guidance, but in the meantime authorities have already been asked to review their own guidance and practice, particularly procedures for informing community carers of the history of the children placed with them; clarification of disputes over facts; the recording of disagreements about the management of any child care case; the assessment of alternative disposals in making reports to hearings and the need to bring any child at risk of abuse into the ambit of the hearings system.

CHILD PROTECTION

3. Lord Clyde made 36 recommendations relating to child protection and a number of them have led to early action. Child protection committees have been invited to strengthen their role and take initiatives in suggesting courses of action, training and practical planning to ensure that the full needs of child protection are met in their area. Ways in which authorities might be assisted if faced with particularly difficult cases are under consideration and social work authorities have reviewed their guidance, procedures and practice in the light of Lord Clyde's recommendations. Similar action has been taken as appropriate by education authorities and by the police. Training courses have been adjusted to deal more comprehensively with stress management, given the levels of stress experienced by workers dealing with child sexual abuse. The resources available for child protection training have been increased through the social work training specific grant.

PLACES OF SAFETY

4. Social work authorities were asked to review their procedures and practice to ensure that they are consistent with Lord Clyde's recommendations. This will reinforce the need to ensure that the views of the child are properly taken into account, that siblings taken into care should not normally be placed separately and that authorities working together should have a clear mutual understanding of their respective roles and responsibilities. Various detailed recommendations on facilities, possessions and access have also been drawn to the attention of authorities. Recommendations in respect of medical examinations have been brought to the attention of Health Boards. Work is also in progress on Scottish Office guidance which will draw on these recommendations.

INTERVIEWING OF CHILDREN

5. Lord Clyde paid close attention to the way in which children had been interviewed and made recommendations covering not only the interview itself but related matters such as parental consent, input from other interested parties, management issues, planning, and collection of evidence. The great majority of them have been specifically drawn to the attention of social work authorities who have been invited to ensure that their procedures and practice accord with the recommendations. Guidance on interviewing is at present being drafted by The Scottish Office.

INTERAGENCY COLLABORATION

6. In both the Orkney and Fife Inquiries the great complexity of child care management was noted and the importance of agencies being clear about their respective roles and responsibilities was stressed. This message was reinforced to all relevant organisations. The relevant Scottish Office guidance (Effective Intervention) is under revision.

RESIDENTIAL CARE

7. The Review of Residential Child Care identified various areas where improvements could be made. The report listed 66 recommendations designed to ensure that this area of child care should be improved and seen as a positive option and of particular benefit in appropriate circumstances.

8. Many of the recommendations related to matters which local authorities were already beginning to address. For example the preparation and review of statements of functions and objectives has been widely improved and training and management issues are now being effectively addressed. Additional resources have been made available for training through the social work training specific grant.

THE ROLE OF THE REPORTER

9. Discussions are in progress with the Convention of Scottish Local Authorities and representatives of reporters on training. Work is being taken forward by reporters on a code of practice. This follows from the recommendations in Mr Finlayson's Report.



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