



Lothian and Borders Community Justice Authority

Framework for the support of families affected by the Criminal Justice System

SUPPORTING DOCUMENT

May 2015

About the Supporting Document

This Supporting Document is designed to supplement the *Framework for the support of families affected by the Criminal Justice System*. Here, users of the Framework will find further information relating to the Framework’s Outcomes and Recommendations including rationale and good practice examples.

The Supporting Document is a working document. It will be continually reviewed and updated to provide more information as it becomes available, further examples of good practice, or to highlight new key documents.

Information within the Supporting Document is organised and numbered by Outcome and Recommendation number as per the Framework itself. Examples of good practice and key resources are included in the shaded textboxes throughout the document. Key issues papers will be developed at a later date. These will focus on the more aspirational or contentious recommendations within the Framework.

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1

Informed practice

1.1

Training and accreditation

Staff have received appropriate training and qualifications

Robertson (2012) Recommendation

1.1.1 | All staff are trained

A confident and competent workforce across all services for children, young people and their families

GIRFEC (2012) Core component

Those involved in delivering the National Strategy for the Management of Offenders should receive training on the needs and rights of the children of offenders.

Marshall (2008) Recommendation 24

Is information/guidance/training available for all those working with affected children?

Mason-White and Kearney (2012) Issues to consider

Criminal justice, social work and other professionals that may come into contact with children of incarcerated parents should be trained in the rights and needs of such children.

Robertson (2012) Recommendation

Guidance should be prepared and training provided so that teachers and other adults in schools are aware of the particular needs of children of incarcerated parents and can appropriately support such children in their performance, attendance and behaviour.

1.1.2 – 1.1.3 | Training content

The principle that visits need to be seen as a child’s right and must not be used as a disciplinary measure or punishment should be...a regular feature of staff induction, training and appraisal.

SCCYP (2011) Follow-up recommendation 16

Security staff in prisons should be trained in child-appropriate searching and in the impact on children of parental imprisonment and the prison environment.

Scharff Smith and Gampell (2011) Recommendation

GOOD PRACTICE and KEY RESOURCES

Families Outside Training

Families Outside offers a number of training packages to professionals in Scotland including:

- CPD training for teachers, in partnership with the Scottish Prison Service.
- KIDS VIP Practitioner Training programme for prison officers and play workers.
- Out of the Shadows training package to support practitioners working with families affected by the criminal justice system, in partnership with South West Scotland Community Justice Authority.

Professionals may also access videos for use during training, such as 'Reversible Thinking' and '27,000 Voices' available on the Families Outside website

For further information see:

<http://www.familiesoutside.org.uk/training/>

<http://www.familiesoutside.org.uk/reversible-thinking-video/>

<http://www.familiesoutside.org.uk/27000-voices/>

Other Resources for Professionals

Barnardo's i-HOP website is a one stop information and advice service to support all professionals working with children and families of offenders, bringing together useful information

in one place.

For further information see:

<https://www.i-hop.org.uk/>

1.1.4 | Child protection training

1.1.5 | Trainers are appropriately trained

1.2

Policy and practice guidance

Agency policies and practice guidance recognise and support the rights and needs of families

1.2.1 | Guidance recognises family rights

Law, policy and practice in relation to criminal justice and imprisonment should be amended to take account of the rights of children affected by the imprisonment of a parent or carer.

Marshall (2008) Recommendation 2

GOOD PRACTICE and KEY RESOURCES

A 'Bill of Rights for Children of Incarcerated Parents' was developed by the San Francisco Children of Incarcerated Parents Partnership. They are the rights:

1. To be kept safe and informed at the time of my parent' s arrest
2. To be heard when decisions are made about me;
3. To be considered when decisions are made about my parent;
4. To be well cared for in my parent' s absence;
5. To speak with, see and touch my parent;
6. To support as I face my parent' s incarceration;
7. Not to be judged, blamed, or labelled because my parent is incarcerated;
8. To a lifelong relationship with my parent.

For further information see:

<http://www.sfcipp.org/images/brochure.pdf>

1.2.2 | Impact Assessments inform policy

Scotland's Commissioner for Children and Young People (SCCYP) has developed a Children's Rights Impact Assessment. This is a tool that enables policy and decision makers to assess the impact on children and young people of legislation, policy decisions, budgetary decisions, organisational and administrative changes, current practice or changes in practice.¹ In 2011 SCCYP identified that issues relating to children of prisoners were rarely reflected in new policy and practice initiatives and that this 'is indicative of a lack of a systematic children's rights approach.'²

Law, policy and practice affecting the children of offenders should be reviewed in light of their impact on the children of

¹ Paton, L. and Munro, G (2006) *Children's Rights Impact Assessment: The SCCYP Model*. Edinburgh: Scotland's Commissioner for Children and Young People

² SCCYP (2011) *Not seen. Not heard. Not guilty. The rights and status of the children of prisoners in Scotland. Review 2011*. Edinburgh: Scotland's Commissioner for Children and Young People.

prisoners. Consideration should be given to using the SCCYP Children’s Rights Impact Assessment as a tool to achieve that end.

Marshall (2008) Recommendation 28

The Scottish Government should carry out children’s rights impact assessments on all initiatives, policies and guidance publications that affect the rights of children of offenders.

SCCYP 2011 Follow-up Recommendation 1

1.2.3 | GIRFEC informs policy

1.2.4 | Families inform policy

Children (and families) of prisoners should...be able to participate in the development and delivery of all services, training materials and guidelines concerning them.

Robertson (2012) General principle

1.2.5 | Families are supported to share their views

1.2.6 | Looked-after children

1.2.7 | Child protection policy

1.2.8 | Monitoring and evaluation

1.2.9 | Allocation of resources

The important role of non-governmental organisations in supporting prisoners and their families should be recognised and appropriate funding should be made available to them so that such assistance can be provided in accordance with need.

Scharff Smith and Gampell (2011) Recommendation

1.2.10 | Guidance for arrest procedures

Depending on the age or quality of the relationship with the parent, children may feel shock, fear, anxiety or anger towards the arresting officers. This may be particularly true for children and young people who witness aggression towards their parent, or if they are unaware their parents have been involved in criminal activity.

Police should receive guidance and training on dealing with children sensitively when a family member is being arrested or detained.

Marshall (2008) Recommendation 7

Protocols or other guidance should be developed on how arresting officials should respond to children at or affected by an arrest.

Robertson (2012) Recommendation

Specific guidelines should be developed for police officers on handling arrests in the presence of children, with the overall aim of minimising the traumatic consequences for children. All arresting officers should be trained in accordance with the guidelines.

Scharff Smith and Gampell (2011) Recommendation

1.2.11 | Review of visiting procedures

The Scottish Prison Service should be encouraged to pursue its plan of undertaking visitors’ surveys to assess satisfaction with arrangements that affect families.

Marshall (2008) Recommendation 19

Prisons should seek the opinions of children and others as to the quality of visits and other forms of contact, and their ideas for improvement.

Robertson (2012) Recommendation

1.3

Understanding need and impact

Agencies have procedures to identify the support needs of individual families and the potential impact of all decisions on

1.3.1 | Information about family is collected

The Scottish Government, the Scottish Prison Service, and others should work together to improve the collection of data about the number of children in Scotland affected by the imprisonment of a parent.

SCCYP (2011) Follow-up recommendation 3

Criminal justice agencies should develop data collection and monitoring systems aimed at protecting children’s rights that capture the number of prisoners with children, the number of children each incarcerated parent has and other information necessary to plan policy and practice.

Robertson (2012) Recommendation

Police and prisons should be legally obliged to collect information about the number and age of children whose parents have been arrested and/or imprisoned.

Scharff Smith and Gampell (2011) Recommendation

A resolution of the Parliamentary Assembly of the Council of Europe calls on States to ‘record the number, ages and locations of the prisoner’s children and the children’s carer immediately upon arrival at the

prison (regardless of whether the prisoner is male or female) and make such information publically available.³

1.3.2 | Information collected as soon as possible

1.3.3 | Prisoners encouraged to share information

Who checks to see whether children are affected – those with official and unofficial caring responsibilities, including the arresting officer? How is this done? How can it be ascertained that the arrestee is telling the truth and not hiding the existence of children (for example out of fear that they will lose custody of or access to the child)? What provision is made to address concerns that disclosing the existence of children may lead to their being taken into state care with the likelihood of permanent separation?

Mason-White and Kearney (2012) Issues to consider | Arrest

How is information on the parent’s caring responsibilities acquired and verified? Through interviews with the parent, social workers, schools? Perhaps a checklist is required?

³ Parliamentary Assembly of the Council of Europe’s resolution 1663 (2009) of 28th April 2009 on Women in Prison, para 8.3

Mason-White and Kearney (2012) Issues to consider |
Pre-trial decisions

1.3.4 and 1.3.5 | Families considered in all key decisions

Any new sentencing body or guidelines should acknowledge that the rights and interests of the children of offenders are a legitimate, necessary and important consideration.

Marshall (2008) Recommendation 8

Prior to sentencing, courts should identify whether those convicted have dependent children and take into consideration the impact of all potential sentences on children. The best interests of the child should be a primary consideration when choosing a sentence.

Robertson (2012) Recommendation

A landmark South African Judgement in *S v M* (2007) establishes that 'all South African courts [must] give specific consideration of the impact on the best interests of the child when sentencing a primary caregiver if the possible imprisonment will be detrimental to the child, then the scales must tip in favour of a non-custodial sentence, unless the case [is] so serious that that would be entirely inappropriate.'

1.3.6 | Impact assessments are used

In 2006, Scotland's Commissioner for Children and Young People (SCCYP) developed Children's Rights Impact Assessments. This is a tool that enables policy and decision makers to assess the impact on children and young people of

legislation, policy decisions, budgetary decisions, organisational and administrative changes, current practice or changes in practice.⁴ Although originally developed to guide SCCYP's own work, the then commissioner Kathleen Marshall called for policy and decision makers to use the toolkit as a matter of routine, even when the issue is not unique to children.⁵

The rights and interests of the children of offenders should be taken into account when sentencing options are being considered and their impact on the sentence should be recorded.

Consideration should be given to requiring a child impact assessment or, where a Social Enquiry Report is ordered, as an explicit component of that report. Good practice guidance should be issued on conducting a child impact assessment, backed up by training. This should acknowledge the need to avoid exposing children to pressure from the offender or family in the process of assessing the likely impact of the child.

Marshall (2008) Recommendation 11

Child impact assessments should be available whenever considering placing or releasing parents from custody, including decisions about pre-trial detention or early

⁴ Paton, L. and Munro, G (2006) *Children's Rights Impact Assessment: The SCCYP Model*. Edinburgh: Scotland's Commissioner for Children and Young People

⁵ Ibid

release, as well as when transferring prisoners between prisons.

Robertson (2012) Recommendation

Could the use of 'impact statements' be appropriate? In some countries the victim of a crime provides an impact statement for consideration by the judge. Perhaps the child could provide a similar impact statement when parents are sentenced? This could even be taken at the point of custody, rather than sentencing, so that it could encompass the impact of care arrangements.

Mason-White and Kearney (2012) Issues to consider |
Trial

1.3.7 | Arresting officers aware of dependants

Arresting officers should be under legal obligation to find out whether the arrested person has any children or if they have primary responsibility as carers for any children (in particular if children are not present during arrest).

Scharff Smith and Gampell (2011) Recommendation

1.3.8 | Sentencers aware of impact on family

When considering potential sentences for a child's carer, sentences that are least damaging to the child should be considered first. These are likely to be non-custodial sentences. Guidance should be prepared on how different sentences affect children.

Robertson (2012) Recommendation

There should be a presumption against pre-trial detention and the best interests of the child should be a primary consideration when deciding on or reviewing pre-trial measures for a parent, in particular the decision to detain. Guidance should be prepared on what information is required for such decisions and on how to gather this information.

Robertson (2012) Recommendation

1.4

Information sharing

Protocols and organisational culture support the appropriate and timely sharing of information between agencies and with

1.4.1 | Sharing information

The Data Protection Act 1998 promotes lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed.

As GIRFEC is about early intervention and prevention it is very likely that information may need to be shared before a situation reaches crisis. In the GIRFEC approach, a child's Named Person may have concerns about the child's wellbeing, or other individuals or agencies may have concerns that they wish to share with the Named Person. While it is important to protect the rights of individuals, it is equally important to ensure that children are protected from risk of harm. The Act requires that an individual's data be processed fairly and lawfully and that specific conditions/justifications for processing are met.

It is vital that data controllers put appropriate and relevant protocols in place and that they are conveyed to practitioners to provide them with a support mechanism for the decision making process. It is also vital that a recording process is included in the protocol so that the decision – including

the rationale behind making it – is formally recorded.

If there is any doubt about the wellbeing of the child and the decision to share, the Data Protection Act should not be viewed as a barrier to proportionate sharing.⁶

1.4.2 | Referral to other agencies

1.4.3 | Right to privacy

The collection and sharing of information on the children of offenders inevitably raises other human rights issues. The child or the parent may not wish to reveal or share the information with other agencies and doing so against their will could violate the right to private and family life. The child and or parent may be concerned about stigmatisation and discrimination or the fear that sharing information could lead to the parent losing custody of or access to the child. There are also cases where the child's right to information may conflict with the parent's right to privacy, such as where the arrested or detained person does not want their family to be informed of their whereabouts.⁷

⁶ ICO Brief 2013

⁷ Mason-White and Kearney (2012) p16

Is the child's right to privacy respected by all those working with him or her? Is the parent's right to privacy respected? Are the different actors working with and around the affected children aware of and sensitive to the child's needs, including their right to privacy?

Mason-White and Kearney (2012) Issues to consider

1.4.4 | Permission not required

Where circumstances exist such that consent may not be appropriate, for example where an assessment under the SHANARRI principles raises concerns, the Data Protection Act provides conditions to allow sharing of this information, such as 'for the exercise of any other functions of a public nature exercised in the public interest by any person' or 'in the legitimate interests of the data controller or the third party to whom the data are disclosed so long as it is not prejudicial to the child', and procedures should be clear about those circumstances which may necessitate processing without consent.⁸

1.4.5 | Informed decision

The Data Protection Act provides several conditions/justifications for processing, only the first of which rely on consent and, where required, it should be fully informed and freely given. However, the issue of obtaining consent can be difficult and it should only be sought when the individual has real choice over the matter.⁹

⁸ ICO Brief 2013

⁹ ICO Brief 2013

1.4.6 | Lead professional

Who is responsible for informing the children (if not present at the arrest)? Who is responsible for keeping the child/carer (individual, agency or institution) informed about what is happening to the parent after the arrest? Is the arrestee permitted and enabled to do this, if appropriate and if they wish to do so?

Mason-White and Kearney (2012) Issues to consider | Arrest

A named person for every child and young person, and a Lead Professional (where necessary) to coordinate and monitor multi-agency activity

GIRFEC (2012) Core component 7

1.4.7 | Local partnerships

Local authorities should assess the adequacy of joint working and the 'flow' of information relating to the children of prisoners between children's and criminal justice services with a view to improving cooperation between agencies and appropriate information sharing that underpins better support for the children of prisoners.

SCCYP (2011) Follow-up recommendation 10

Agencies and services should coordinate to ensure the best interests of the child are met. Information about children should only be used or shared when in the best interests of the child.

Robertson (2012) Recommendation

Children, young people and their families will have experienced a more streamlined

and coordinated response from practitioners.

GIRFEC (2012)

Consistent high standards of cooperation, joint working and communication where more than one agency needs to be involved, locally and across Scotland.

GIRFEC (2012) Core component 6

2

Families are included and
engaged

2.1

Understanding the process

Families understand what is happening at every stage of the criminal justice process

2.1.1 | Timely information

2.1.2 | Support to understand the process

Children, young people and their families understand what is happening and why.

GIRFEC (2012)

Children should be provided with age appropriate information about visiting procedures and arrangements, including information about what they are allowed to bring with them on visits and how the search procedures will be conducted when they arrive at the prison. Such information should be provided in a variety of formats (for instance, large print, 'easy read' versions, audio versions) and languages.

Scharff Smith and Gampell (2011) Recommendation

Prisoners, their relatives and their children should be offered appropriate, up-to-date and relevant information at each stage of the process – from arrest to release – about procedures and policies that affect them and affect family relationships.

Scharff Smith and Gampell (2011) Recommendation

GOOD PRACTICE and KEY RESOURCES

Court Project

The Lighthouse Foundation had a support worker based at the Sheriff Courts in Ayr and Kilmarnock providing support to families (ended December

2014 due to lack of funds).

HMP Edinburgh Visitor Booklets

Edinburgh Prison Visitor Centre have developed three booklets- Visiting Mum, Visiting Dad, and a Parent's Guide featuring artwork by visiting children and a step by step guide to the workings of Edinburgh Prison.

Families Outside Resources for Children

Families Outside produces two booklets aimed at children and young people explaining what happens when a relative is sent to prison. Honest? is aimed at Children between age of 5 and 11 years and What's the Story? is for children and young people aged 12 and 16 years. Families Outside also has a web based e-learning resource 'It's No Holiday' looking at the experience of young people with a family member in prison.

Sesame Street

Sesame Street has created the first Muppet with an imprisoned parent to help teach children how to cope when mummy or daddy goes to prison. The [Little Children, Big Challenges: Incarceration Initiative](#) is an online tool kit helps kids with a parent in prison find support and comfort and provide families with strategies and tips to talk to their children about imprisonment.

2.1.3 | Age-appropriate support

Parents and carers should be supported and encouraged to tell children, in an age-appropriate way, the truth about their parent's situation and to better understand the potentially negative repercussions that lying can have on a child's development. Guidance should be prepared on appropriate ways of telling children about parental incarceration.

Robertson (2012) Recommendation

2.1.4 | Accused updating their family

2.1.5 | Finding out about wellbeing of family

2.1.6 | Family are told what has happened

The State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child.

UNCRC Article 9.4

How are arrangements made to inform children who are not present when the arrest takes place and to meet and escort them home or to an alternative carer?

Mason-White and Kearney (2012) Issues to consider | Arrest

2.1.7 | Families supported to attend trial

Children should be given individualised and age appropriate support to attend the

trial of a parent, where they wish to go and it is in their best interests.

Robertson (2012) Recommendation

States should progress towards having child-friendly justice systems that include children of incarcerated parents [as] an explicitly named and considered group.

Robertson (2012) Recommendation

2.1.8 and 2.1.9 | Family induction

The Scottish Prison Service should ensure consistency in the timely provision of all relevant information (including on the types of child-parent visits available at the prison) to children and families, including through family inductions at every establishment.

SCCYP (2011) Follow-up recommendation 14

Children should be provided with age appropriate information about visiting procedures and arrangements, including information about what they are allowed to bring with them on visits and how the search procedures will be conducted when they arrive at the prison. Such information should be provided in a variety of formats (for instance, large print, 'easy read' versions, audio versions) and languages.

Scharff Smith and Gampell (2011) Recommendation

Information on prison procedures and regulations, and the reasons for these procedures, should be provided to families ahead of visits. If families have to book visits in advance, information should be provided at point of booking. Information should be available in places that children and families may frequent (including

police stations, courts, youth clubs, schools and websites)

Robertson (2012) Recommendation

Where possible, children should be able to see where their parents live in prison (i.e. be able to visit their parent's cell or be given a photograph of the cell) so as to reduce their fear and anxiety around what happens to their parent when the child leave the prison after a visit.

Scharff Smith and Gampell (2011) Recommendation

2.1.10 | Understanding placement decision

2.1.11 | Families understand non-custodial measures

2.2

Aware of available support

Families are aware of the full range of information and support available to them and how to access this

2.2.1 – 2.2.2 | Access to information about support

Children and their families should be told about support available to them, including organisations, telephone helplines and websites. Criminal justice and other officials should provide this orally and in writing, in forms and languages children of different ages and stages of development understand.

Robertson (2012) Recommendation

All places where children of those in conflict with the law come into contact with the criminal justice system, including police stations, lawyers' offices, court holding cells and judges' benches, should display information about available support. Such information should also be available in other places children and families frequent, including schools, youth clubs and websites, as well as in prison for newly arrived prisoners.

Robertson (2012) Recommendation

Information about all the support available for children of incarcerated parents should be mapped, collected and disseminated, including in child-friendly formats.

Robertson (2012) Recommendation

Prisoners and their families, including children, should be provided with information about the support available to them before, during and after the period of imprisonment of a family member. Children should be provided with age-appropriate information about support which they can access separately from their parents, if such support is available (for example, through children's charities)

Scharff Smith and Gampell (2011) Recommendation

Is information about support for children and families, such as support groups, helpline numbers and website information, available and displayed in every place where they come into contact with the criminal justice system? E.g. lawyers' offices, police stations, court holding cells and on judge's benches? Is it available in other places children and families frequent, including schools, youth clubs and children's centres, as well as in prison for newly arrived prisoners? Is information in a child-friendly format and in the language(s) the affected children know?

Mason-White and Kearney (2012) Issues to consider

GOOD PRACTICE and KEY RESOURCES

Circle

Circle's Families Affected by Imprisonment project provides support to prisoners and their families, taking a

whole family approach, to promote positive and sustained family relationships.

Family Contact Officers

Family Contact Officers are available at each prison offering support and information to families and visitors

Police Cards at point of arrest

In recognition of the stress and anxiety following arrest, a working group of representatives from South West Scotland CJA Family Strategy Group comprising representatives from the Police, the Lighthouse Foundation and Families Outside developed a contact card which arresting officers will leave with family members when an individual is arrested at home. The cards contain contact details of sources of support and information the family may require at any point consequent to an arrest. Local Helpline details include Police Stations, Social Work and the Lighthouse Foundation; national helplines include Families Outside, Parentline and Scottish Families Affected by Alcohol & Drugs

2.2.3 | Assisted Prison Visits Scheme

2.2.4 | Families Outside Helpline

Families Outside is the only dedicated Support and Information Helpline for families with a relative in prison. This is a confidential Freephone service to help families with any questions or concerns they may have while their relative is involved with the criminal justice system.

Freephone 0500839383

support@familiesoutside.org.uk

2.2.5 | Prison Visitor Centres

Prison visitor centres should be developed and maintained as a way of providing fun, information and social opportunities for children of incarcerated parents. They should be available to families before and after visits.

Robertson (2012) Recommendation

GOOD PRACTICE and KEY RESOURCES

There are prison visitor centres or family help hubs at several of Scotland's prisons:

- Addiewell Prisoner Visitors' Centre is run by Families Outside.
- Visitors at HMP Barlinnie can receive support at the Croft, a community based centre run by local faith groups
- Edinburgh Prison Visitors' Centre is a purpose built facility, owned by the Onward Trust and managed by the Salvation Army
- Cornton Vale's Visitors' Centre is run by Stirling Interfaith Group
- Perth Prison Visitors Support and Advice Centre is managed by Cross Reach
- A 'Family Bus' is managed by the Church of Scotland at HMP Polmont

2.2.6 | Voluntary throughcare

2.3

Consulted at every stage

Families are meaningfully involved in decisions that will affect them

2.3.1 | Involved in decisions that affect them

Children, young people and their families are appropriately involved in discussions and decisions that affect them.

GIRFEC (2012)

Children (and families) of prisoners should be actively involved in decisions that affect them, in accordance with their age and maturity.

Robertson (2012) Guiding Principle

2.3.2 | Children involved in childcare decisions

Children themselves should be able to participate and be heard in decisions about alternative carers.

Robertson (2012) Recommendation

Is the child's right to be heard respected in the provision of alternative care arrangements?

Mason-White and Kearney (2012) Issues to consider | Trial and Sentencing

2.3.3 | Creative approaches to consultation

Are serious attempts made to facilitate child participation, beyond mere tokenism? This should involve child-friendly

mechanisms such as art, games and group work, where children's voices are listened to as part of play, not exclusively restricted to a formal context.

Mason-White and Kearney (2012) Issues to consider | Trial and Sentencing

2.3.4 | Families feel they have been heard

Children, young people and their families have been listened to carefully and their wishes have been heard and understood.

GIRFEC (2012)

2.3.5 | Accessible complaints systems

2.3.6 | Consulted regarding sentencing decisions

See 1.3.6: Impact assessments are used

2.3.7 | Involved in case conferences

2.3.8 – 2.3.9 | Involved in planning for release and resettlement

Children of incarcerated parents should be consulted and their views considered when decisions are made about sentence progression, resettlement and release of incarcerated parents.

Robertson (2012) Recommendation

3

Families are connected

3.1

Visiting and physical contact

Positive family relationships are encouraged through physical access to the family member involved with the criminal justice

3.1.1 | Visits are the right of the family

In 2008 Scotland's then Commissioner for Children and Young People highlighted that the legal minimum of visits was quite low, lower often than actual practice. She expressed concern that if the reality is not safeguarded this 'opens the door for visits to be withdrawn as a punishment. This may be appropriate when a visit is seen as a privilege of the offending parent but not where it is viewed as the right of the innocent child'¹⁰

Scottish Ministers should consider reviewing the Prison Rules with the Scottish Prison Service with a view to raising the basic legal entitlement to visits to reflect actual practice. Further, quality bonding visits should be available in all prisons in Scotland and should be regarded as a right of the child rather than a privilege of the offender.

Marshall (2008) Recommendation 16

The Scottish Prison Service should review its disciplinary arrangements to ensure that decisions to reduce visiting or impose closed visits take specific account of the rights of any children affected.

Marshall (2008) Recommendation 17

The Scottish Prison Service should continually reinforce the very important principle that visits, including child-focused or 'bonding' visits need to be seen as the child's right, and must not be used as a disciplinary measure or punishment against the prisoner. The SPS should consider including this principle in the revised Prison Rules. This should be an area of particular attention in SPSs ongoing work to measure and drive implementation of the Guidelines across the estate, and be a regular feature of staff induction, training and appraisal.

SCCYP (2011) Follow-up recommendation 16

Prison visits and other interaction with an incarcerated parent is the right of the child and should not be dependent on or restricted by the parent's behaviour, unless this is in the best interests of the child. Threats of or actual removal of contact should form no part of prison discipline.

Robertson (2012) Recommendation

The needs of children should be paramount in the development of law and guidelines on prison leave and their implementation. Additional contact with children should never be treated as an "award" under the system of prison privileges dependent on the behaviour of a prisoner. Neither should prisoners be

¹⁰ Marshall, 2008, p5

deprived of such contact as a disciplinary measure.

Scharff Smith and Gampell (2011) Recommendation

3.1.2 | Saying goodbye

3.1.3 | Visiting shortly after detention

Is contact between parent and child allowed shortly after arrest, so as to allay the child's concerns regarding the parent's safety and well-being?

Mason-White and Kearney (2012) Issues to consider | Arrest; Imprisonment

A child should have the right to visit his or her imprisoned parent in an appropriate setting within one week of the initial imprisonment and frequently thereafter.

Scharff Smith and Gampell (2011) Recommendation

3.1.4 | Access to the accused pre-trial

Visiting and family contact for pre-trial detainees is often far more restricted than for convicted prisoners so as to limit the possibility of prejudicing the trial. This clearly impacts on the children of the alleged offender.¹¹

Unless it has been judged not be in their best interests, children should have access to parents in pre-trial detention by default, facilitated by the detaining authority. Restrictions should only be permitted when the detaining authority has shown reasonable grounds for doing so.

Robertson (2012) Recommendation

3.1.5 – 3.1.6 | Prisoner placement and family best interests

The child's best interest must be considered when a parent is sentenced, with regard to both the choice of punishment and, if imprisoned, the choice of where the sentence is served so as to ensure the possibilities for face-to-face contact between the child and the parent during the stay in prison.

Scharff Smith and Gampell (2011) Recommendation

If the parent is found guilty and obliged to serve a custodial sentence, will he or she be placed in a correctional institution that is close to and accessible from where the child is/will be living? Can it be guaranteed that the offender will remain in proximity to the child for the duration of their sentence?

Mason-White and Kearney (2012) Issues to consider | Trial

3.1.7 | Visits booking system

3.1.8 | Efficient visiting procedures

3.1.9 | Aware of visit entitlement

See 2.1.8: Family Induction

3.1.10 | Child friendly facilities

Facilities should be available to meet the needs of children visiting prison, including access to toilets, play spaces and seats from which parents are visible, audible and able to be touched.

Robertson (2012) Recommendation

3.1.11 | Child friendly visits

The Scottish Prison Service should ensure that all prisons offer a range of 'bonding'

¹¹ Mason-White and Kearney (2012)

and other child-focused visits and that these are open to the full range of prisoners who are parents; there should be clear criteria underpinned by the rights of children for these that are applied consistently throughout the estate.

SCCYP (2011) Follow-up recommendation 15

Minimum European standards should be adopted for visiting facilities in prisons to create child-friendly spaces which encourage personal contact and provide an environment conducive to play and positive relations between parents and their children. Such facilities should be accessible to children with disabilities or other access needs.

Scharff Smith and Gampell (2011) Recommendation

Both the physical prison environment and staff behaviour towards children should be child-friendly and supportive. Guidance should be prepared on how to achieve this, with training and financial support provided to implement necessary changes.

Robertson (2012) Recommendation

Contact visits should be the norm for children visiting parents in prisons. Longer, private and/or child-friendly visits should be available whenever possible.

Robertson (2012) Recommendation

Arrangements should be made in prisons for parent-child activities on a regular basis. Opportunities should also be created for children to visit their parent in private in special circumstances.

Scharff Smith and Gampell (2011) Recommendation

3.1.12 | Flexible visiting hours

Visit times arranged by the Scottish Prison Service should take account of school hours and public transport issues in order to avoid disruption to schooling, ease the stress of visits and increase uptake.

Marshall (2008) Recommendation 15

3.1.13 | Practical support for visiting prisoners

As recommended by Families Outside, local and national transport strategies should include arrangements for transport to prisons. Prisons should be required to produce travel plans in conjunction with local providers.

Marshall (2008) Recommendation 14

The Scottish Prison Service should consider good practice examples in the prison estate in respect of transport for families visiting prisons, and work with community partners to ensure that such good practice replicated at other prisons.

SCCYP (2011) Follow-up recommendation 19

Children unable to visit their parent on grounds of distance should be supported financially in visiting, particularly to prisons that are difficult to reach.

Robertson (2012) Recommendation

Financial support should be available to families on low income to ensure visits are not impossible due to lack of funds. Where possible, families travelling long distance to prison should be

accommodated overnight close to the prison facility.

Scharff Smith and Gampell (2011) Recommendation

GOOD PRACTICE and KEY RESOURCES

Assisted Prison Visits Unit

The Assisted Prison Visits Unit helps with the cost of visiting a family member in prison for people on a low income.

<https://www.gov.uk/assisted-prison-visits>

Sacro Travel Service

Sacro provide travel and transport to families visiting Scottish Prisons. Families must live in Glasgow or Edinburgh in the Lothian' s.

<http://www.sacro.org.uk/services/criminal-justice/travel-service>

3.1.14 | Reuniting families

3.1.15 | Home leave

Prison regimes should be designed in a way that progressively allows imprisoned parents to take parental responsibility, in particular as part of preparation for release (for example, by creating opportunities for imprisoned parents through home leaves).

Scharff Smith and Gampell (2011) Recommendation

3.1.16 | Preparing for release

Children should be supported and prepared for the release and return of an incarcerated parent before the date of release, in particular by parents and carers. Guidance should be prepared to address the needs of children at these times.

Robertson (2012) Recommendation

3.2

Indirect contact

Positive family relationships are encouraged through various mediums of communication

3.2.1 | Practical support for indirect contact

GOOD PRACTICE and KEY RESOURCES

Virtual Visits

Aberdeen Apex offices facilitate 'virtual visits' for families through a video link. Video conferencing facilities are currently available at HMP&YOI Grampian, HMP Perth and YOI Polmont

Email a prisoner scheme

The 'email a prisoner' scheme facilitates contact across the prison estate by allowing family and friends to send emails to prisoners. These are printed inside the prison and included in the daily mail delivery. A Prisoner reply service is available at HMP & YOI Grampian, HMP Shotts and HMP Kilmarnock

Electronic Payments

HMP Addiewell and HMP Kilmarnock have signed up to Secure Payment Services allowing families to send money securely to prisoners.

3.2.2 – 3.2.3 | If physical contact not possible

Indirect contact should supplement, not substitute, in-person visits.

Robertson (2012) Recommendation

3.2.4 | Support to read and write letters

GOOD PRACTICE and KEY RESOURCES

Storybooks Dads, Books for Bairns

A number of prisons in Scotland have taken on their own version of Storybooks Dads. Prisoners create bedtime story CDs, DVDs and other educational gifts for their children.

3.2.5 | Telephone access

Telephones should be available for prisoners and their families to maintain regular contact, with both children and parents able to make and receive telephone calls.

Robertson (2012) Recommendation

3.2.6 | Cost of telephone access

Call costs should preferably be free for those making or receiving them and in any case should not be prohibitive.

Robertson (2012) Recommendation

3.2.7 | Additional alternative contact

Specific guidelines should be developed in relation to supporting and maintaining contact for prisoners whose children live abroad. In particular, the use of internet technologies (including the use of web cameras and internet instant chat

communication) should be encouraged in such circumstances.

Scharff Smith and Gampell (2011) Recommendation

For parents incarcerated abroad, arrangements should be made to enable children's continued contact with their parent, which should take into account time differences and costs of international correspondence.

Robertson (2012) Recommendation

Children unable to visit their parent on grounds of distance (whether in the same or different country to their incarcerated parent) should be supported in alternative ways of keeping contact, including additional or free telephone calls and letters.

Robertson (2012) Recommendation

3.2.8 | Schools encourage contact

4

Families are safe and well

4.1

Preventing harm

Agencies ensure their practices are not detrimental to the physical safety and emotional wellbeing of families

4.1.1 | Disclosure checks

4.1.2 | Emergency child protection orders

4.1.3 | Support for kinship care

4.1.4 | Family present at arrest

Arrest protocols should uphold the rights and dignity of the child, including ensuring the parent is not humiliated in front of the child.

Robertson (2012) Recommendation

An arrest that involves an unnecessary display of force may constitute a violation of the child's right to respect for private and family life and possibly his/her right to freedom from inhuman and degrading treatment. In circumstances where the use of force against the parent is less extreme than to constitute 'inhuman and degrading treatment' the parent should nevertheless not be humiliated in front of the child.¹²

4.1.5 | Dedicated staff for vulnerable family members

Do police consider and provide for children present? E.g. could one arresting officer be specially assigned to focus on the children, take them to another room, explain what is happening, etc.?

Mason-White and Kearney (2012) Issues to consider | Arrest

4.1.6 | Meeting the needs of vulnerable family members

Children should not be left alone following the arrest of a parent. They should be left in the care of an appropriate adult.

Robertson (2012) Recommendation

Arresting officers should ensure that children are taken care of properly and in particular that they are not left on their own following the arrest of a parent.

Scharff Smith and Gampell (2011) Recommendation

4.1.7 and 4.1.8 | Resolving urgent childcare needs

What provision is made for the child after their parent has been arrested and/or who is responsible for the child's wellbeing? This includes assessing the suitability of a temporary carer/guardian e.g. police background check, child welfare services

¹² Mason-White and Kearney (2012) p20

background check and/or interview and a site inspection of their home.

Mason-White and Kearney (2012) Issues to consider | Arrest

When a sentence causes parents to be separated from children for whom they are caring, they should be given sufficient time to make arrangements for those children prior to the commencement of the sentence, taking into account the best interests of the child.

Robertson (2012) Recommendation

Immediately following arrest, arrested persons should be allowed and supported to make temporary childcare arrangements for children under their care.

Robertson (2012) Recommendation

4.1.9 | Search procedures

Search procedures should be appropriate and proportionate to children's rights, i.e. they should consider the child's right to privacy, their bodily integrity, safety and security, etc.

Scharff Smith and Gampell (2011) Recommendation

4.1.10 | Caring responsibilities and non-custodial sentences

Do non-custodial measures take account of the caring responsibilities of the parent and the best interests of the children? E.g. does home curfew take account of any need to take children to or collect them from school? Are any infringements of non-custodial conditions checked to ensure that they were not influenced by legitimate child rights considerations? E.g.

the need to take a child to a doctor conflicting with reporting to a probation officer? Do the reporting requirements uphold the dignity of the child and their parent, and respect their right to privacy? E.g. where must the parent report? At what time of day?

Mason-White and Kearney (2012) Issues to consider | Non-custodial measures

It should be clearly stated that child care responsibilities should not be a barrier to a person undertaking community service as an alternative to prison. Where appropriate, Child care should be provided to allow a community service order to be carried out. Community service opportunities should be audited to assess their suitability for women offenders.

Marshall (2008) Recommendation 10

a) The forthcoming regulations under s.227F of the 1995 Act should put beyond doubt that local Authorities must provide for expenses covering adequate childcare responsibilities to carry out the requirements attached to a Community Payback Order. B) The relevant sections of the practice guidance for Community Payback Orders should be amended so as to be clear about what Local Authorities must provide to ensure that childcare responsibilities are not a barrier to a community sentence being imposed.

SCCYP (2011) Follow-up recommendation 7

4.2

Supporting wellbeing and positive outcomes

Agencies offer services to support emotional wellbeing and positive life outcomes for families affected by the Criminal

4.2.1 | Emotional and psychological support

GOOD PRACTICE and KEY RESOURCES

In Tune

In 2014, Vox Liminis and Families Outside supported three workshops as part of the 'In Tune' Project. Run by professional musicians, these interactive music workshops brought families affected by imprisonment together and saw very positive results: 71% of children demonstrated evidence that their family relationships had improved.

For further information see:

<http://www.familiesoutside.org.uk/tune-2014/>

<http://www.voxliminis.co.uk/>

in other ways support positive experiences for children should be offered in prisons.

Scharff Smith and Gampell (2011) Recommendation

GOOD PRACTICE and KEY RESOURCES

National Parenting Strategy

The Scottish Prison Service has developed a National Parenting Strategy Outcomes Policy. Each prison is tasked with creating local action plans to meet the outcomes.

For further information see:

<http://www.sps.gov.uk/Families/FrequentlyAskedQuestions/Families-Policies.aspx>

HMP Low Moss Homework Club

HMP Low Moss runs a weekly homework club where children and their dads work on homework with the support of a volunteer teacher.

4.2.2 | GIRFEC used to support wellbeing

4.2.3 | School policies and practices

4.2.4 | Parenting and family learning

Parenting classes should be designed specifically for parents involved with the criminal justice system and made widely available. Other ways of strengthening the parenting role of incarcerated parents should also be supported.

Robertson (2012) Recommendation

Parenting and other programmes that encourage the development of constructive parent-child relationships and

4.2.5 | Access to the same learning for all family members

4.2.6 | Support following witnessing an arrest

In their study of children involved in the United States Child Welfare System, Phillips and Zhao found that witnessing the arrest of a household member, either alone or in conjunction with the recent

arrest of a parent, is predictive of elevated post-traumatic stress symptoms.¹³

4.2.12 | Programmes in preparation for release

How are the child's emotional and developmental responses to the event provided for? Is the child offered immediate crisis counselling and follow-up mental health services?

Mason-White and Kearney (2012) Issues to consider |
After the arrest

4.2.7 | Support is considerate of loss

4.2.8 | Additional support during visits

4.2.9 | Prisoners are informed of family well-being

How is the parent kept informed about the situation and wellbeing of the children?

Mason-White and Kearney (2012) Issues to consider |
Pre-trial detention

Incarcerated parents should be given information about and enabled to participate in resolving any difficulties relating to their children, provided this is in the best interests of the child.

Robertson (2012) Recommendation

4.2.10 | Caring responsibilities of imprisoned parents

4.2.11 | Community integration plans recognise family issues

¹³ Phillips, S. and Zhao, J., (2010) The relationship between witnessing arrests and elevated symptoms of post-traumatic stress, *Children and Youth Services Review* 32 (10), 1246. Quoted in Mason-White and Kearney (2012) p25

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Appendix 1: Key Issues Papers (*in development*)

- Child and Family Impact Assessment