

HEALTH AND SPORT COMMITTEE

FORENSIC MEDICAL SERVICES (VICTIMS OF SEXUAL OFFENCES) (SCOTLAND) BILL

LETTER FROM NSPCC

NSPCC Scotland commentary on oral evidence for Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill

We are grateful to the Committee for the opportunity to provide our perspective on evidence provided to the Committee in respect of the Forensic Medical Services (Scotland) Bill.

Integrated services for children following rape and sexual abuse

1. What are your views on the general principles of the Bill in relation to children and young people?

NSPCC Scotland strongly supports the general principles of the Bill in relation to adult victims of sexual assault. The 2017 HMICS review¹ exposed the very poor state of forensic provision in many areas in Scotland and reform is long-overdue. A clear duty on health boards to provide forensic medical services is a critical aspect of improving a holistic, trauma-informed health response to victims.

We also strongly support the principle of a legal duty on health to provide forensic medical examination services to child victims of sexual abuse. The overall drive to improve the forensic medical and health response to all victims that is continuing apace across Scotland, including the recruitment, training and retention of a workforce required to support equity of access for both adults and children, must fall under the responsibility of health boards, in order that the relevant Healthcare Improvement Scotland standards² apply and the improvement is consistent across the piece. However, as expressed in our written evidence, we are struggling to understand how the proposed duty in and of itself will drive the development of integrated services for all children and young people where sexual abuse is disclosed.

The nature of child sexual abuse means that most cases do not come to light within the forensic window, meaning the majority of children will not undergo a forensic medical examination. Their need for a fully integrated response, which includes attention to their emotional and therapeutic recovery needs, in conjunction with their child protection and welfare needs, is no less for this. We would understand the key driver at present for the development of an integrated service for children following sexual abuse to be the 2017 HIS

¹ Available at:

<https://www.hmics.scot/sites/default/files/publications/HMICS%20Strategic%20Overview%20of%20Provision%20of%20Forensic%20Medical%20Services%20to%20Victims%20of%20Sexual%20Crime.pdf>

² Available at:

http://www.healthcareimprovementscotland.org/our_work/standards_and_guidelines/stnds/sexual_assault_services.aspx?theme=mobile

Standards and the Child's Pathway³, which we understand is being developed by the Scottish Government.

2. Would you would like to see any additional provisions in the Bill and if so what they should cover?

As per our written evidence, we are of the view that there needs to be clearer and stronger legal obligations in place to drive the development of an integrated, multi-agency response to all children following sexual abuse, not just those who require a forensic medical examination.

We must create a system in which, at the very least, physical health needs are considered alongside emotional and mental health and recovery needs, and which helps address the chronic lack of provision of therapeutic recovery services for children following abuse.⁴ To this end, we would support the introduction of duty on health boards to assess the emotional and mental health needs of all children who have experienced sexual abuse, and a statutory obligation to provide therapeutic recovery services.

However, we are unclear whether such an amendment would fit within the scope of the current Bill, given its focus on forensic medical services.

Barnahus

3. Do you consider that the provisions in the Bill support the Barnahus approach? Is the Bill Barnahus ready?

We are thoroughly supportive of the development of a Barnahus model in Scotland, a child-centred, integrated approach which supports a child's right to recovery and their right to justice.

We do not consider that the provisions in the Bill will in any way undermine a Barnahus approach. However, it creates a legislative framework in respect of only one discrete aspect of what a Barnahus would provide.

In order for the Bill itself to *facilitate* a Barnahus approach, it would at least need to facilitate integrated working between health and the other core agencies that must collaborate in assessing and responding to a child's needs following disclosure of/ suspected child sexual abuse. This collaboration would also need to apply to all children and young people following sexual abuse, not just those who access forensic medical services.

4. What changes could be made to ensure that there aren't any unintended consequences in relation to the development of a Barnahus approach?

We don't foresee any significant unintended consequences of the Bill in and of itself, in relation to the development of a Barnahus approach.

³ For more information see: <https://www.gov.scot/publications/clinical-pathway-children-young-people-disclosed-sexual-abuse/pages/11/>

⁴ See: <https://learning.nspcc.org.uk/research-resources/2017/right-to-recover-sexual-abuse-west-scotland>

We note concerns made by Children 1st about unintended consequences in relation to this Bill and the wider work underway via the Chief Medical Officer taskforce, most specifically the development of a Pathway for Children and Young People following sexual abuse. It is our understanding that these concerns stem from an apprehension that workstreams which focus on the response to child sexual abuse alone risk undermining the development of a Barnahus model which supports children who have experienced this and other types of abuse.

The Barnahus concept is not one single model of delivery, but rather an approach that has child-centredness and co-located, integrated of services at its core. We understand that the Promise Standards⁵ supports a Barnahus service which works with children experiencing any kind of violence, including sexual violence. However, we also note that Child's House standards being developed by the Home Office for England and Wales focus only on child sexual abuse.

Whilst supportive of a wider Barnahus model, we would be very concerned about stalling progress in the development of an integrated health and social care response to children following sexual abuse. Our *Right to Recover* research found there was no standard assessment of children's wider emotional needs following sexual abuse, and no routine follow-up. Similarly, there was no clear pathway for support for children about whom there were no live child protection concerns.⁶ There is significant urgency in improving our response to children who have experienced sexual abuse.

It is, however, frustrating that the national work to improve the forensic and wider health response to children following sexual abuse has not progressed in close collaboration with other national programmes of work to develop the essential justice components of a Barnahus. The HMICS review clearly recommended that work progressing within justice and separately within health should be joined up.

We would therefore urge the Committee to request that the Scottish Government bring forward detailed plans, within the lifespan of this Bill, as to how the various streams of work underway in relation to discrete aspects of a fully integrated service, *including* the work under the Evidence and Procedure Review⁷ and the work underway in the CMO Taskforce relevant to developing integrated health services for children and young people following sexual abuse, are to be fully brought together to ensure that they progress under one banner, in children's best interests.

5. Would you prefer children to be included in this Bill or addressed in separate legislation?

We are strongly of the view that Scotland must offer a child-centred and integrated response to children who experience sexual abuse; one in which children's mental and

⁵ Available at: <https://www.childrenatrisk.eu/promise/standards/>

⁶ *ibid*

⁷ See: <https://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/evidence-and-procedure-full-report---publication-version-pdf.pdf?sfvrsn=2> and <https://www.scotcourts.gov.uk/docs/default-source/SCS-Communications/evidence-and-procedure-report---next-steps---february-2016.pdf?sfvrsn=2>

emotional health – and their right to therapeutic recovery - is central. Our view is that the development of a Barnahus model Scotland would deliver this.

It may be likely that such a model requires some kind of legislative underpinning in Scotland, particularly if we consider the history of sexual assault services in Scotland and the failure to develop any kind of Sexual Assault Referral Centre (SARC) estate, unlike in other parts of the UK.

However, we do not believe that this requires the removal of children from the current Bill. As far as we understand, health boards would be a key partner of any Scottish Barnahus service in providing both forensic medical and wider health services. We would therefore be wary of removing a proposed legal obligation on health to provide these services to children, when a catalyst for investment in, and development of, such services in Scotland is so critically needed.

Child protection and age of the child

10. Are the provisions in the Bill, or should they be, in line with child protection guidance?

The national child protection guidance applies to all statutory services with a duty to protect children and ensure their best interests.

The provisions in the Bill should be in line with child protection guidance. It would risk creating substantial confusion amongst collaborating agencies if provisions in the Bill were not in line with statutory child protection.

Children with additional needs

13. Are there specific issues that relate to children with children and young people with disabilities or additional needs, that should be considered as part of the Bill?

Children and young people with disabilities are at *significantly* higher risk of sexual abuse, and other types of abuse, than other children⁸. It is therefore vital that children with disabilities have access to accessible information and advocacy when accessing forensic medical services or other types of support.

Children and young people alleged to have perpetrated sexual assault and abuse

14. Do you consider that the provisions in the Bill should be extended to cover alleged child perpetrators of sexual assault and rape?

The HMICS report highlighted that many children suspected of perpetrating sexual offences are subject to forensic examination in police custody and recommended⁹ that action be

⁸ See <https://www.nspcc.org.uk/globalassets/documents/research-reports/right-safe-disabled-children-abuse-report.pdf>

⁹ *Ibid*, p8

taken to address this. We note, however, that the current Bill does not contain any measures to give effect to this recommendation.

We appreciate that this is a complex area and that there will be significant operational considerations to ensure that all children are protected from harm.

However, the continued examination of children in police custody settings seems incompatible with a child welfare based approach, the stated commitment to UNCTC incorporation, and arguably out of step with the current policy direction regarding children who engage in harmful sexual behaviour.¹⁰

NSPCC would support the provisions in the Bill being extended in order that the duty on health clearly covers the forensic examination of all children. We would equally welcome a statutory basis for the provision of therapeutic interventions to address children's harmful sexual behaviour. Our *Right to Recover* research similarly identified serious gaps in provision in this area¹¹.

¹⁰ See: <https://www.gov.scot/publications/expert-group-preventing-sexual-offending-involving-children-young-people-prevention-responses-harmful-sexual-behaviour-children-young-people/>

¹¹ *ibid*