

REPORT NO 232/97

ANGUS COUNCIL

SOCIAL WORK COMMITTEE.....25 February 1997

DEVELOPMENT OF THE CLIENTS' RIGHTS SERVICE

REPORT BY THE DIRECTOR OF SOCIAL WORK

ABSTRACT

The purpose of this report is to inform the Social Work Committee of the establishment of the Clients' Rights Service within the social work department's "arms-length" Registration and Inspection Unit.

This report presents a summary of how the Clients' Rights Service will promote the rights and responsibilities of children, young people and adults including older people who are in receipt of services from the social work department, either directly or by agents acting on its behalf, by the provision of a confidential, advisory, counselling, representation and advocacy service.

1 RECOMMENDATIONS

It is recommended that the Social Work Committee:

- i notes the contents of this report;
- ii agrees the service description and the attached code of ethics;
- iii instructs the Director of Social Work to provide an annual report regarding the number, types and outcomes of referrals to the Clients Rights Service with a view to analysing any significant patterns which might influence future policy and practice within the social work department.

2 INTRODUCTION

The Clients' Rights Service is an integral part of the social work department's functions and it is located within the "arms-length" Registration and Inspection Unit.

This is a new service which has been established by Angus Council to be available to clients of the social work department, who have reason to believe that their rights are being ignored or infringed, or where they are unclear about the rights that they have.

The Clients' Rights Service is non-discriminatory and it is available in confidence to all clients of the social work department *regardless of age, race, colour, sex, sexual orientation, language, nationality, ethnic, national or social origins, religious and/or political beliefs or other opinion, property, medical condition or disability, birth or other status. (*Universal Declaration of Human Rights and International Covenants on Human Rights definitions incorporated).

3 BACKGROUND

Tayside Regional Council was the first authority in Scotland to introduce a Children's Rights Service. Angus Council social work department determined that it would be in the interests of **all** members of the public who made use of social work services if a **Clients' Rights** service, rather than a **Children's Rights** service was introduced. On April 1996 the first Clients' Rights Service in the country became available to all clients of the social work department in Angus.

4 SERVICE DESCRIPTION

4.1 Statement of Aims and Objectives

The aim of the Clients' Rights Service is to promote the rights and responsibilities of children, young people and adults including older people who are in receipt of services from the social work department or agents contracted to provide services on its behalf. This will be achieved by:

- ①. The provision of a confidential, advisory, counselling, representation and advocacy service.
- ②. Ensuring that clients' rights are paramount within all service areas from the planning stages to the delivery of services.
- ③. The provision of advice and guidance to the social work department and other providing agents in terms of clients rights within the framework of International Protocol, UK Legislation, Local Council Guidelines and Departmental Procedures.

4.2 Availability

The Clients' Rights Service is available to clients of the social work department who have reason to believe that their rights are being ignored or infringed.

These rights include:

- **The right to have their views heard** (United Nations Convention on the Rights of the Child Article 12.1)
- **The right to be treated with dignity and respect** (Universal Declaration of Human Rights articles 10, 23 & 24 -Covenants of January 1976)
- **The right to information** (United Nations Convention on the Rights of the Child Article 17 & Paragraph 7 of Scottish Office Circular SW11/1991)
- **The right to see personal information held on computer by the Social Work Department** (Data Protection Act 1984)
- **The right to see any medical report on them that a doctor has written for an insurance company or an employer** (Access to medical reports Act 1988)
- **The right to be protected from abuse** (Universal Declaration of Human Rights articles 10, 23 & 24 -Covenants of January 1976 and United Nations Convention on the Rights of the Child Articles 19, 32, 33, 34, 35, 37, 39 & 40)
- **The right to an assessment and the participation in the assessment of their own needs** (Section 55 of the National Health Service and Community Care Act 1990 & SSI Assessment and Care Management Practitioners Guide HMSO 1991 Sections 3.16 - 3.31)
- **The right to participate in how services are provided to meet their needs** (SSI Assessment and Care Management Practitioners Guide 1991 Sections 3.16 -3.31)
- **The right to education** (United Nations Convention on the Rights of the Child Articles 28 & 29 and Children (Scotland) Act 1995)
- **The right to appeals and legal redress** (Universal Declaration of Human Rights articles 23 & 24 - Covenants of January 1976 and United Nations Convention on the Rights of the Child Articles 19, 37, 39 & 40)
- **The right to question the quality of service without fear of being disadvantaged because of it** (Universal Declaration of

Human Rights articles 23 & 24, The United Nations Convention on the Rights of the Child Articles 12.2 & 13 and The Social Services Inspectorate 1991 Section 3.29)

- **The right to privacy** (Universal Declaration of Human Rights Articles 12, 23 & 24 and United Nations Convention on the Rights of the Child Article 16)
- **The right to live in safety** (Universal Declaration of Human Rights Articles 23 & 24 and United Nations Convention on the Rights of the Child Articles 3, 11, 16, 19, 20, 21, 23, 27, 30 & 32 - 41)
- **The right to live an ordinary life** as defined by the Universal Declaration of Human Rights ALL Articles and The United Nations Convention on the Rights of the Child ALL Articles)

There are issues about rights which are not defined in UK legislation but which are defined in the standards set by the social work department on how services are provided. Equally there are issues about rights which are defined in International Protocol which are not defined in either UK legislation or by Angus Council.

The objective of the Clients' Rights Service is to make clients of the social work department aware that they have a right to challenge decisions and question the ways in which services are provided.

The Clients' Rights Service will also directly pursue or enable clients to pursue the principles associated with the promotion of procedural rights e.g. the right to: information, assessment, safety, have a written care plan, have direct access to expert advice, independent advocacy, appeals, access to legal redress, etc. by the participation in appropriate policy, planning and practice fora.

The Clients Rights Service operates at arms-length from service providers.

This service operates with independence of thought and attitude and aims to be:

- **Client Centred**
- **Accessible**
- **Responsive**
- **Confidential**

The Clients' Rights Service provides a well publicised and accessible service which deals promptly and confidentially with enquires from clients. Some of the key tasks include advocacy at formal or informal meetings with operational staff or other agencies, assisting clients to complain if that is their wish or sometimes simply listening to clients if they do not wish to speak to a social worker, care manager or other members of staff within the social work department.

4.3 Referrals

- Clients of the social work department can refer themselves directly by contacting the Clients' Rights Service answerphone 01241-876845 24 hours a day.

Alternatively

- Referrals will be accepted from anyone who has reason to believe that the rights of clients of the social work department are being ignored or infringed.

It is therefore essential that all clients of the social work department are made aware of the existence of the Clients Rights Service at the earliest opportunity and are given information on how to access the service.

People who use a service from the social work department and who contact the Clients' Rights Service themselves will be recognised as primary clients. Where a request for the Clients' Rights Service comes from a carer, a member of staff or relevant others, the Clients' Rights Service will recognise them as non-primary clients.

The Clients' Rights Service reserves the right not to accept referrals from non-primary clients, if it is identified that such a contact with the Clients' Rights Service ignores or infringes on the rights of the client(s).

The Clients' Rights Service will (with the authorisation of clients) identify the most suitable resource(s), to provide a comprehensive service in line with the aims of the service.

4.4 Communication and Models of Response

The Clients' Rights Service will whenever practicable respond to clients within 24 hours of contact being established with the service. In the absence of the Clients' Rights Officer, concerns raised by clients of the social work department will initially be referred to the Head of Registration and Inspection.

Because of its arms-length nature, the Clients' Rights Service will (in consultation with the client) seek to establish key contacts within the social work department, other Angus Council Departments and any other agency as appropriate in relation to client's rights issues.

The Clients' Rights Service will monitor the rights and welfare of children and young people in secure accommodation. It will also respond to concerns related to the rights and the welfare of adults including older people who are in residential and nursing homes or using home care services, while clients of the social work department.

4.5 Accountability

Within Angus Council, the Clients' Rights Service comes under the supervision of the Head of Registration and Inspection who functions at arms-length from the operational wing of the social work department.

In practical terms the Clients Rights Service will also endeavour to be accountable to all clients of the social work department who seek its service.

4.6 Complaints

The use of the Clients Rights Service will not preclude service users from using the department's formal complaints procedure if they remain dissatisfied about the initial concern or about the way the Clients' Rights Service has dealt with the concern.

4.7 Advice and Information

The Clients' Rights Service is available to all clients of the social work department who wish to receive advice and/or information regarding any of the services that the social work department or other agencies provide and what should be expected of those services.

Information leaflets about the Clients' Rights Service will be given to all clients of the social work department as soon as practicable and certainly within the first face to face contact with any member of the social work department staff, a record to confirm that this right has been upheld will be logged in all clients files. All clients of the social work department who are admitted into care will be given information on the availability of the Clients' Rights Service.

Leaflets and posters will also be available in all social work department sub-offices. Posters will be displayed in all Angus Council offices, hospitals where we have client or in an area Citizen Advice Bureau offices, Secure Units, Residential Schools and libraries. The Clients' Rights Service will be supported by the social work department information distribution service to ensure that clients of the social work department have the relevant information for accessing the Clients' Rights Service.

The Clients' Rights Service will advise and assist professional staff, carers and relevant others on the issues related to the rights and responsibilities of children, young people and adults including older people.

4.8 Promoting a Rights Culture

The Clients' Rights Service will produce six monthly anonymised reports for the Director of Social Work in respect of the type of referrals and outcomes, highlighting any patterns and specific details which might influence future policy and practice within the social work department.

5 FINANCIAL IMPLICATIONS

The Clients' Rights Service is contained within the department's revenue expenditure budget. There are no additional financial implications arising directly from this report.

6 CONSULTATION

The Chief Executive, the Director of Law and Administration and the Director of Finance have been consulted in the preparation of this report.

7 CONCLUSION

This report has provided an outline of how the newly established Clients' Rights Service will function within the social work department's "arms-length" Registration and Inspection Unit.

This service has been established to ensure that the rights of clients of the social work department are upheld through compliance with policy and procedures as well as with UK legislation and International Protocol. The Clients' Rights Service will respond timeously to complaints that require mediation and negotiation raised by, or on behalf of clients who are or have been looked after and/or are accommodated by the social work department, including clients who are in receipt of residential and nursing home provision and/or other community care services. Where resolution to concerns can not be reached to the satisfaction of clients, carers or advocates, the Clients' Rights Officer will guide clients through other appropriate procedures.

The Clients' Rights Service will also assist in informing and influencing future policy and practice within the social work department.

The members are being asked to agree to the contents of this report and those of the appended document.

13 February 1997

W B ROBERTSON
Director of Social Work

Note: The undernoted background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to a material extent in preparing this report.

REFERENCES

- 1) UN Charter
- 2) UN Universal Declaration of Human Rights (1948) UK - signatory
- 3) Covenants on Civil and Political Rights (1966) UK - signatory
- 4) Covenants on Economic, Social and Cultural Rights (1966) UK - signatory
- 5) UN Convention on the Rights of the Child (1990) Ratified by the UK 1991



10 February 1997

Your Ref:

To:
Directors of Social Work

Our Ref: SW/4/2-DRF

Dear Director

IMPLEMENTATION OF CHILDREN (SCOTLAND) ACT 1995

As you will no doubt be aware, a special meeting of COSLA's Social Affairs Forum was held on 6 February to discuss the difficulties councils will face in implementing the Children (Scotland) Act from 1 April 1997.

The report submitted to the Forum indicated that, whereas ADSW had calculated that £27m would be required in 1997/8 to implement the Act fully, it appears that the Scottish Office provision for the Act in the GAE calculation for next year is £5m; and at time when the overall resources available to social work are decreasing. The Forum confirmed its strong support for the measures contained in the Act and underlined that councils were anxious to implement it. It was made clear, however, that councils across the country were firmly of the view that, without additional resources, implementation would cause massive problems for councils. The Forum agreed to make this case in the strongest possible terms to Lord James Douglas-Hamilton, the Scottish Office Social Work Minister, when they meet him on 28 February. The outcome of that meeting will be reported to the Social Affairs Forum at its meeting on 7 March and at that stage the Forum will have to decide on a course of action which can be recommended to councils in the light of the Minister's response.

One of the options considered by the Social Affairs Forum was to seek agreement to either delaying implementation of the Act or phasing implementation. The Forum was mindful of the critical need for a consistent approach to be taken by councils, but was also aware that all councils are currently in the midst of a budget exercise where decisions will have to be taken on spending on the various parts of the Children Act. In this light, it was agreed that I should write to all Social Work Directors seeking information of your own plans for implementation of the Act and, in particular, for views on those parts of the Act you feel it might be possible to introduce on a phased basis. I have attached a copy of a list of options presented to the Social Affairs Forum and would be grateful if you would use this as a basis for your response. The responses will be used to formulate a proposed common approach to implementation of the Act. In order to prepare for the Ministerial meeting on 28


WHEN CALLING PLEASE ASK FOR: David Ferguson

February and the Social Affairs Forum on 7 March, I would require your response by 20 February at the latest.

You might wish to note that I have written separately to Chief Executives advising them of the Social Affairs Forum's concerns about financing the implementation of the Act and highlighting the actions proposed by the Forum.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "David Ferguson". The signature is written in a cursive style with a large initial 'D'.

David Ferguson
Head of Policy Development.

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Children (Scotland) Act 1995Phased Implementation Options1. Looked After Children

Sections 17 & 31 - additional costs £6.3M

It is not practical to phase the main clauses but parts of the Regulations and guidance could be phased. The following are the main additional duties and expectations :-

- (a) Reviews and Care Planning. The regulations require Care Plans for all children who are looked after and to review at specified intervals. This includes children on home supervision - a new duty that will be very costly. Suggest seek postponement in respect of looked after children who are not accommodated ie children on home supervision.
- (b) Guidance proposes independent chairing of reviews
 - no statutory duty - COSLA might advise non-implementation.
- (c) Guidance on home supervision requires allocation of social worker prior to Hearing, sets out national standards of involvement in cases brought on offence grounds, increased requirements for interagency work and increased number of Hearings. Guidance has considerable weight - recommend seek postponement.
- (d) Fostering Regulations establish new duties to draw up Foster Care agreements with all approved carers and to carry out annual reviews. Recommend seek postponement.
- (e) Residential care - guidance recommends new standards for selection, vetting and training of staff. The proposals for selection and vetting are essential in view of the widespread concern about abuse. However the training standards require additional resources.
- (f) Residential care - guidance recommends criteria for buildings. The reduction in capital allocations make these virtually impossible to attain.
- (g) Secure care - both regulations and guidance require major capital and revenue investment to achieve. The staffing levels proposed are higher than those current in the largest secure unit in Scotland. Recommend seek postponement

2. Childrens Service Plans Sec 19
Public Information Sec 20 } £1.6M

Sections 19 & 20 could be delayed. The Directions specify that plans and public information should be in place by 1st April 1998. This involves draft plans being ready for consultation by the autumn of 1997. The Scottish Office has asked for draft plans to be available by December 1997. The Regulations and guidance require a complex and detailed plan to be produced.

Section 20 imposes a duty to publish information and must specifically include information about the services available for children affected by disability.

3. Children in Need (excluding disability)

Sections 22, 27 & 93(4) additional costs £7.3M

It is up to each authority how it defines children in need. Even if the definition is tightly defined, there is a duty to provide day care and similar services. It would however be very difficult not to implement this section of the Act. Section 12 of the Social Work (Scotland) Act has been significantly amended to exclude reference to children under 18. There is not provision under that Act to provide support for children living with their parents to prevent them coming into care.

The most practical option is to seek to defer implementation of the duty to provide day care.

4. Children Affected by Disability

Sections 23, 24 & 93 - extra costs £5.3M

These sections contain major new areas of responsibility. On request, the local authority must assess the child's and the family's needs and indicate what services they will provide. The current level of services is totally inadequate to meet need. The duty to assess is stronger than the duty to provide services.

It is suggested that the only real option is to defer implementation of the clause in the main Act. The guidance describes good practice and the essential problem is the unreality of assessing need when it is known services are not there to meet the need.

5. Throughcare and after-care services £4.6M

Sections 25 & 29

Youth homelessness has emerged as a major problem over the past 10 years. A significant number of young homeless people have been in care. The additional duties relate to preparation for independence and extension of age by a year to under 19 and the guidance increases significantly the standard of practice to be adopted.

It is suggested that the most significant new duty which requires resources is the extension of the age from under 18 years to under 19 years and that this could be deferred until resources are available.

6. Other clauses

One specific additional duty is to provide comprehensive post adoption services. Implementation of the relevant schedule could be deferred.

