



Aberlour's response to the proposed private members Bill, Support for Children (impact of parental imprisonment) (Scotland) Bill, in the name of Mary Fee MSP

Introduction

Aberlour has worked both in prisons and in the community to provide support for families affected by parental imprisonment for many years. We have seen, first hand, the impact that parental imprisonment can have on attachment, resilience and life outcomes in children of all ages. As such we commend Mary Fee for bringing this important issue to the attention of the Scottish Parliament and warmly welcome the opportunity to work both with her and with other stakeholders towards the Bill's development.

Aberlour's work with children affected by parental imprisonment

As stated above, we have worked with children and their parents both in the criminal justice system and in the community following release or during sentence. Our work has spanned parental capacity, childhood reliance and rehabilitation. Services inside the prison estate have included a parenting support service and the mother and baby unit at HMP Cornton Vale, whilst in the community we have delivered and continue to deliver a range of services principally designed at families affected by parental substance use, many of whom will have continuing involvement with the criminal justice system.

Components of the proposed Bill:

Children's rights

We feel that any Bill put before Parliament on this topic should be subjected to a full child's rights impact assessment.

Child and family impact assessments

The Bill proposes to amend the Criminal Procedure (Scotland) Act 1995 to place a statutory duty on the courts to order a child impact and family assessment after sentencing. The information gathered in these assessments would trigger a range of 'wrap-around interventions' from the relevant authority to support the child and mitigate the impact of parental imprisonment.

Whilst we whole heartedly support the introduction of such assessments, we would like to offer the following observations and suggestions for amendment:

Assessment timings and relationship to sentencing

Whilst we understand that the architects of this proposed Bill have stipulated that an impact assessment be undertaken after sentencing so that it might not have an impact on the length or nature of sentence and as such won't ever be perceived as a 'get out of jail free' card. However, we think a more sophisticated approach is needed here. We absolutely agree that justice must continue to be served and blind to the family circumstances of the individual in terms of severity of length of sentence- how and where that sentence is disposed should, we feel, be informed by the impact that this might have on any children.

The Angiolini commission into Women offenders recommended that we move away from sending women offenders to large, traditional custodial institutions and look instead to establish smaller, more open units, closer to the communities to which these offenders belong. We supported this and were delighted when the Scottish Government announced that it had abandoned plans to build HMP Inverclyde. We believe that support for children affected by parental imprisonment is entirely in step with the spirit of the Angiolini recommendations and that those recommendations should influence this proposed legislation in a meaningful way.

As such, we would recommend that a child and family impact assessment could be conducted prior to sentencing, but that the contents of this assessment be disclosed to the judge after length of sentence is determined. This would allow the judge in question to ensure that any custodial term could be in an institution local to the offender's community, to maximise contact, or to avail themselves of any pilot programme being undertaken specifically for offenders with children.

Put simply, conducting an assessment after length of sentence and place of custody have been determined is a bit like closing the barn door after the horse has bolted. Paragraph 6.4 of the consultation states 'we need to support these children right from the start', however sentencing represents in many cases the end to the first part of a very traumatic journey through the criminal justice system.

To have a truly preventative impact on the negative consequences for children affected by parental imprisonment, support for children should be factored into the nature and location of the sentence handed down. It should also assess the impact of a parent's entire journey through the justice system, from arrest and through trial, all of which will have a profound impact on children.

Assessing families of prisoners on remand

A significant gap in the proposals is created by the fact that the child and family impact assessment is triggered by sentencing. Many families in Scotland are affected by parental imprisonment because a parent has been remanded in custody for, in some cases, many months on an untried basis. As these parents have yet to be sentenced they would not qualify for an assessment under the proposals defined in the consultation document.

We feel this is a serious omission and must be rectified to ensure that all children affected by parental imprisonment are offered the same levels of support. Whilst we understand that the architects of the proposed Bill would be anxious that conducting an impact assessment for families of prisoners on remand might still potentially prejudice sentencing, we feel that it is a necessary step to ensure that children and families receive the support they require.

Content of assessment

We support the proposals worked up by Families Outside, Mary Fee and Barnardos as to how these assessments might work in practice. Taking a comprehensive picture of family life prior to sentencing will give courts a clear idea of how custodial sentencing may impact upon any given family and alert all relevant agencies and support services to the needs of the children in question so that support can be provided in a timely and relevant fashion.

Provision of independent advocacy for children during children and family assessments

Efforts to hear the views of affected children as part of the proposed children and family assessments represent a very welcome provision within the proposals. This is commensurate with our country's obligations to Article 12 of the UN Convention on the Rights of the Child. We feel that these provisions could be further enhanced with a recognition that many children both young and old find it difficult to adequately express themselves, particularly in times of stress. As such we feel that children undergoing a child impact assessment should have the right to access the services of a trained and independent advocate should they so wish it.

GIRFEC and the assessment of wellbeing

As local authorities begin to realise their obligations to Getting It Right For Every Child as defined under the terms of the Children and Young People Act, so to will support services be designed around identified wellbeing needs. It would seem sensible therefore to ensure that child impact assessments take into account the impact of parental imprisonment on a child's wellbeing. To ensure that this is consistent with GIRFEC we suggest that the Bill reflect a correlation between the assessment and the SHANARRI wellbeing indicators.

The role of the named person

Tying the Children and Family impact assessment to GIRFEC as suggested above, it is absolutely critical to share the outcome of such an assessment with the Named person or persons attached to the family in question. As the principle function of the named person is to act as a single point of contact to a family in need of support it would follow that these assessments should feed into that process. This relationship should be explicitly referenced on the face of the Bill.

Who should be responsible for conducting the assessments

The consultation document is inconclusive on who should conduct child and family impact assessments and asks for the view of respondents. It suggests a range of stakeholders that might be suitable to the task including criminal justice social workers, family social workers or the third sector. There are natural pros and cons to each suggestion but on balance we would suggest that this be conducted in the first instance by professionals already working with and known to the family, criminal justice social workers etc. If there is no active social worker involvement with the family then third sector organisation or organisations would be best placed to undertake these assessments. In our experience, third sector service providers can foster a different kind of relationship with families which could prove beneficial in these circumstances.

Additional support for learning

The consultation document opens the section on ASL with a quote saying that the main social cost incurred by children of imprisoned mothers comes from an increased likelihood of becoming NEET and having poor long term prospects. We support the suggestion of the Education (Additional support for learning) (Scotland) Act 2004 be amended to include children affected by parental imprisonment with a presumption that they will have additional support needs.

Assessing additional support needs

The consultation document proposes that children affected by parental imprisonment must be assessed for additional support needs before they receive additional support in the classroom. We think it would seem sensible, rather than subjecting the child to two separate assessments, to include the assessment of a child's educational support needs as a part of the Child and Family impact assessment.

Ensuring the educational workforce understands and is trained in meeting the needs of children affected by parental imprisonment

Aberlour have made submissions in the past to inquiries around the educational attainment of looked after children, stressing that in general Scottish Teachers are largely unaware and have not received training in how to deal with the very particular behaviour needs of looked after children. Attachment disorder, trauma and loss can lead to behaviours that require a different approach than how teachers would normally deal with disruptive behaviour from mainstream children. The same can be said for children and young people affected by parental imprisonment. As such we would like to see statutory guidance underpinning this Bill directed at how we best equip teachers to meet the needs of children whose parents are in prison. This could be through in-service training and modules as part of the range of formal teaching qualifications.

Links to related legislation: Children and young people (Scotland) Act: part 12, relevant services

It is certainly true that educational attainment can directly suffer as a result of the trauma and attachment issues caused by parental imprisonment but this isn't the whole story. We would suggest that the Bill should reflect the needs and interests of those young people who are taken into care as a result of parental imprisonment. This Bill needs to work in step with other pieces of legislation aimed at reducing the need to take children under formal supervision.

A correlation should be drawn between this Bill and Part 12 of Children and Young People Act- Relevant services to families with children at risk of becoming looked after. A wealth of research demonstrates that the life outcomes of children taken into care is dramatically worse than those supported to stay in the family home. As such there is a clear need to use the provisions in the CYP Act to help prevent the need for children of prisoners to be taken into care.

Access to child and adolescent mental health services

The consultation document rightly recognises the significant impact that parental imprisonment can have on child and adolescent mental health. Scotland's mental health provision for children remains woefully inadequate. With a waiting time target of 23 weeks which is often missed by several

months, children of prisoners may only finally be seen by CAMHS after their parent has been liberated. This is unacceptable. Aberlour has long campaigned for far greater statutory investment in CAMHS and a significant and dramatic reduction in waiting times. Our view is that children should not have to wait any longer for expert clinical care to address mental health needs than they currently do for acute physical healthcare needs. We would like to see this reflected in primary legislation.

Conclusion

We warmly welcome the planned introduction of this important Bill and commend Mary Fee MSP for her efforts in this regard.