

Meeting	Policing Performance Committee
Date	8 June 2021
Location	MS Teams
Title of Paper	SPA Corporate Parenting Plan preparation and consideration of the UN Convention on the Rights of the Child
Presented By	Sam Curran, Operational Policing Policy Lead
Recommendation to Members	For discussion
Appendix Attached	No

PURPOSE

This paper provides an update on development of the SPA Corporate Parenting Plan. It also provides background information on the Children and Young People (Scotland) Act 2014 and the adoption of the UN Convention on the Rights of Child (UNCRC) in Scotland.

Members are invited to discuss the content of this paper.

1. BACKGROUND

Corporate Parenting

- 1.1 The Children and Young People (Scotland) Act 2014 defines corporate parenting as 'the formal and local partnerships between all services responsible for working together to meet the needs of looked-after children, young people and care leavers'. Schedule 4 of the Act identifies both the Scottish Police Authority and the Chief Constable of the Police Service of Scotland as Corporate Parents.
- 1.2 A [paper](#) detailing the specific requirements placed upon a Corporate Parent was discussed by this Committee at its August 2020 meeting. In summary, the basic duties of a Corporate Parent are to:

- Understand the issues that care-experienced young people face and assess their needs
 - Promote the interests of care-experienced young people and provide them with opportunities
 - Collaborate with other corporate parents and improve the ways of working with care-experienced young people.
- 1.3 All Corporate Parents have a duty to prepare and publish a Corporate Parenting plan which outlines their approach to fulfilling their duties. Whilst developing this plan, they are required to consult with other Corporate Parents and parties as appropriate. More generally, Corporate Parents have a duty to collaborate with each other in safeguarding or promoting the wellbeing of looked-after young people and care leavers.
- 1.4 In addition to developing its own plan, the SPA has a duty to oversee and scrutinise Police Scotland's adoption and compliance with the requirements placed upon a Corporate Parent. This will involve reviewing Police Scotland's Corporate Parenting Plan, seeking assurance that resources and procedures are in place to meet minimum compliance, and regular performance review.
- 1.5 In a paper presented to PPC on 20 August 2020 it was noted that the SPA has not yet published a detailed Corporate Parenting Plan. As part of the SPA's 2020 programme the development of an appropriate corporate parenting plan would be taken forward.
- 1.6 SPA officers have established a cross-departmental group to progress the preparation and adoption of the SPA's Corporate Parenting plan. Early engagement with the Children and Young People's Commissioner Scotland (CYPCS) has also been undertaken to help inform the plan and discuss key themes. The SPA will share early drafts of the Corporate Parenting plan for CYPCS feedback.
- 1.7 It is recognised that the SPA has limited interaction with looked-after children, young people and care leavers. The SPA's Corporate Parenting Plan will outline steps to ensure that the voice of looked-after children, young people and care leavers is heard in policing matters. However, it is understood that a major role for the SPA as both an oversight body and a Corporate Parent will be in its scrutiny of Police Scotland's performance.

- 1.8 In recognition of the above points, the working group have suggested that the SPA's Corporate Parenting plan has the following overarching aims:
- LOOK - To oversee and support Police Scotland to ensure that the requirements of a Corporate Parent are met.
 - LISTEN - To enable looked-after children and young people and care leavers to have their voice heard in matters relating to policing and to access opportunities.
 - LEARN - To ensure all Scottish Police Authority staff are aware that the organisation is a Corporate Parent with resultant duties to fulfil.
 - REVIEW - To keep the Scottish Police Authority Corporate Parenting Plan under review and monitor our performance.
- 1.9 The aims outlined above will be underpinned by a range of specific, measurable, agreed, realistic and time bound (SMART) objectives and supporting activities, defined within the plan; with performance reported to Scottish Government at the end of the plan's lifecycle.
- 1.10 The SPA will undertake a full equality and human rights impact assessment (EqHRIA) of the Corporate Parenting Plan prior to publication and adoption. The views of key stakeholders will be sought while completing this impact assessment.
- 1.11 It is intended that a draft of the Corporate Parenting Plan (and EqHRIA) will be presented to the SPA Senior Management Team (SMT) for approval in quarter three of 2021. Following approval the plan will then be published on the SPA's website.
- 1.12 An internal delivery group will oversee implementation of the plan. This will be comprised of representatives from across the SPA and invites will be extended to partners including Police Scotland, Forensics Services and any other key stakeholder Corporate Parents to discuss specific matters where appropriate.

UN Convention on the Rights of a Child

- 2.1 The United Nations Convention on the Rights of the Child (UNCRC) is considered the global 'gold standard' for children's rights and sets out the fundamental rights of all children. The UK ratified the UNCRC in 1991, but has not yet incorporated it into domestic law.
- 2.2 On 16 March 2021, the UNCRC (Incorporation) (Scotland) Bill passed through the Scottish Parliament, meaning that the Convention will become part of Scots law. The UNCRC (Incorporation) (Scotland) Bill takes a 'maximalist' approach. It will ensure that children's rights are protected, respected and fulfilled in Scotland to the maximum extent of the Scottish Parliament's powers. The Bill:
- directly incorporates the UNCRC as far as possible within the powers of the Scottish Parliament
 - makes it unlawful for public authorities to act incompatibly with the incorporated UNCRC requirements
 - gives power to the Children's Commissioner to take legal action in relation to children's rights
 - requires Ministers to produce a Children's Rights Scheme setting out how they comply with children's rights and to report annually
 - requires listed public authorities to report every three years on how they comply with children's rights
- 2.3 The Convention has 54 articles that will apply to anyone in Scotland under the age of 18. A significant number of these articles have direct implications for policing. Examples include:
- No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
 - Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be

separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

- Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

- 2.4 On 12 April 2021 the UK Government announced that it would legally challenge the bill passed by the Scottish Parliament on the grounds that parts of the bill are out with the legislative competence of the Scottish Parliament.
- 2.5 Police Scotland have established an internal working group to scope and plan for UNCRC incorporation, to ensure all articles are fully understood and planned for. The SPA are a member of this working group, represented by the Head of Strategy & Performance. A specific report on Police Scotland activity on UNCRC is a substantive item on the committee agenda.
- 2.6 It is expected that adoption of the UNCRC will lead to change to Police Scotland practice and policy. As such, the SPA will continue to use existing governance arrangements to oversee, evaluate and monitor changes to practice, ensuring implementation of the UNCRC is proportionate, adequate and meets the needs of those under 18 years of age as set out in the UNCRC (Incorporation) (Scotland) Bill.
- 2.7 The Independent Custody Visiting Scheme (ICVS) continues to monitor and report on the welfare of people detained in police custody throughout Scotland. Existing monitoring activity considers the upholding of Human Rights and gives specific consideration to the treatment of those under the age of 18. Going forward ICVS will update monitoring and reporting activity in preparation for the maximalist adoption of UNCRC.

3. FINANCIAL IMPLICATIONS

- 3.1 All the work outlined above will be incorporated into general working duties and will be delivered within existing resource and budget constraints.

There are no financial implications or further costs identified at this stage.

4. PERSONNEL IMPLICATIONS

4.1 There are no personnel implications associated with this paper.

5. LEGAL IMPLICATIONS

5.1 There are no further legal implications in this paper to those listed above.

6. REPUTATIONAL IMPLICATIONS

6.1 There are reputational implications associated with this paper. It is important that the Authority has effective arrangements in place to monitor, measure and assess both its own and Police Scotland's compliance with this legislation, in its role as an important public body and in order to maintain confidence in the policing of Scotland and the oversight and scrutiny of policing.

7. SOCIAL IMPLICATIONS

7.1 The adoption by the SPA of a Corporate Parenting Plan will enhance the ability of looked after children and young people to have their voice heard in matters relating to Scotland's policing.

8. COMMUNITY IMPACT

8.1 There are no community implications associated with this paper.

9. EQUALITIES IMPLICATIONS

9.1 This paper details the SPA's proposed approach to Corporate Parenting and UNCRC, as such there are no direct equality implications associated with this paper.

However we recognise, the duty is predicated on taking into account, assessing and keeping under review the wellbeing of certain children and young people within the Children and Young People's Act (Scotland) Act 2014.

- 9.2 The SPA will undertake an equality and human rights impact assessment on the Corporate Parenting Plan prior to adoption and publication, which will no doubt have equalities implications. Key stakeholders, particularly those with experience of looked-after children, young people and care leavers will be consulted during the preparation of this impact assessment.

10. ENVIRONMENT IMPLICATIONS

- 10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are requested to discuss the contents of this paper and endorse the overall proposed approach to oversight of Corporate Parenting and UNCRC.