

Kit Wyeth
Youth Justice and Children's
Hearings Division
2B(S) Victoria Quay
Edinburgh
EH6 6QQ

21 December 2004

Dear Kit

Antisocial Behaviour (Scotland) Act 2004: Statutory Guidance - Local Authority Accountability

YouthLink Scotland welcomes the opportunity to respond to the Scottish Executive's consultation on the draft guidance in respect of the Antisocial behaviour (Scotland) Act 2004: Local Authority Accountability ("the Draft Guidance"). For ease of reference we have used the same themed headings as the Draft Guidance.

In summary, YouthLink Scotland's main points are:

- **YouthLink welcomes the Scottish Executive's commitment to ensuring that children and young people are provided with services to enable supervision requirements to be put into effect**
- **We also welcome the Scottish Executive's support for the "minimum intervention principle" of the Children (Scotland) Act 1995, and its commitment to ensuring that, where voluntary interventions are appropriate, suitable services are made available**
- **YouthLink Scotland takes the view that sufficient resources must be put in place to ensure all supervision requirements are fully implemented and effective**
- **YouthLink Scotland welcomes the Draft Guidance's recognition that the voluntary sector has a key role in supporting vulnerable and most at risk young people, and in addressing their needs, and considers that sufficient resources must be made available to enable the voluntary sector to continue to fulfil this role**
- **The Scottish Executive's commitment to ensuring that excluded children and young people receive education is also welcome**

Context and Background

YouthLink Scotland welcomes the Draft Guidance's clarification of the obligations placed on a child, and on a local authority, in relation to supervision requirements. This will help to ensure that a sufficient level of services is available to enable supervision requirements to be put into effect, and that the needs of the child are met.

We also welcome the provisions in the Antisocial Behaviour (Scotland) Act 2004 which will increase the accountability of local authorities with regard to the provision of support and services for children and young people subject to supervision requirements. We believe that this can make an important contribution to addressing the needs of children and young people.

New Legislative Framework

The Draft Guidance's clarification of the processes required to implement supervision requirements is also welcome. The previous framework did not always necessarily spell this out.

YouthLink Scotland also considers that the period of notice of intended application to the court will ensure that all of the main parties are clear that, where there is a breakdown in the supervision arrangements, opportunities will be available to put remedies in place.

We note, however, that local authorities will have 21 days from receipt of the notice to comply with their duties under the 1995 Act and, that where they fail to do so, the Reporter will then be required to "meet as soon as possible after 28 days of the notice being given, to review the case". YouthLink would like to see further thought given to the timescale for such deadlines, given that in many cases children could be placed in further danger, and their welfare jeopardised, by even the slightest delay. We would welcome clarification by the Scottish Executive of how cases, where there is a demonstrable need for urgency, will be dealt with by the Courts, and by the Reporter.

We further note in Paragraph 19 of the Draft Guidance that the Reporter, when considering whether to make an application to a Sheriff Principal about a local authority's failure to comply with supervision requirements, should disregard the issue of resources. YouthLink Scotland recognises that resources will be a major issue for many local authorities, and anticipates that this issue could be the subject of future discussions between the Scottish Executive and COSLA. We take the view that the needs of the child should be paramount.

Managing the Process

YouthLink welcomes the Scottish Executive's statement that the "principal aim of the new measures is to ensure that all young people get the service they need and deserve". We believe that, to achieve this aim, the Scottish Executive must work closely with COSLA, individual local authorities and the voluntary sector to identify, and to put in place, the resources which this service will require.

The role of the local authority – Service Planning

YouthLink Scotland welcomes the statement that each local authority will have "corporate responsibility" for implementing the supervision requirements. We further welcome the recognition that services other than social work departments will have a contribution to make to this process.

Youth work staff within local authorities, and the voluntary sector, also have a vital role to play in providing support to vulnerable and most at risk young people, which is not always recognised. Youth work is generally a voluntary activity, and cannot be used as a substitute for formal supervision across the board. It can, however, provide support for some of the most vulnerable, and most at risk young people, within our society.

YouthLink Scotland further welcomes the Scottish Executive's recognition at Paragraph 24 of the Draft Guidance "that no single service or intervention...has all the answers", and that "a range of approaches will be required". This supports YouthLink Scotland's own experience of working with young people at our Outlet Youth Work Centre at Polmont Young Offenders' Institution, including the provision of post release support. It also echoes the experience of many of our member

organisations, which provide a wide range of projects and services addressing the needs of vulnerable young people, including young offenders. Many of these projects and services adopt a holistic approach, which focuses on addressing all of the individual young person's needs. It also involves co-ordinating with a wide range of agencies such as the police, social work departments, local health services, and housing departments to name but a few. Against this background, YouthLink Scotland welcomes the recommendation that local authorities and partner agencies should "prepare a "menu" of the services and supports that are available for young people through the hearings system". It is vital, however, that this "menu" should be kept up to date.

The role of the local authority - Assessment

We welcome the Draft Guidance's clarification of the assessment process, and of the role of the care plan in addressing the needs of children and young people. The emphasis on a co-ordinated approach by the agencies involved in delivering individual care plans for young people is also to be welcomed.

YouthLink Scotland notes the statement in Paragraph 25 that every young person referred to a hearing "should have their needs and behaviour assessed" by appropriate local authority staff. The ability of local authorities to guarantee this level of service will depend upon the level of resources available within each local authority.

Local authority response to complaint

YouthLink Scotland notes that the monitoring process and requirements are outlined in Paragraph 32. We believe that one aspect of the monitoring process should be an outline of the arrangements which local authorities have put in place to ensure that children's and young people's views are fully reflected in any complaints arising from the circumstances of their specific case. The monitoring process should also confirm the procedures which have been put in place to update children and young people about the progress of their complaint.

The role of the children's hearing – Imposing a Supervision Requirement

We believe that an area which requires further consideration by the Scottish Executive is where a young person's needs cannot be met from the menu of services and supports. This could raise particular issues for the smaller local authorities, where the services available through such menus could be more limited. This type of scenario could require the local authority to consider "buying-in" services from the voluntary sector or from the private sector. Where there are budget constraints within the local authority, this could place young people's welfare at risk.

The Role of the Voluntary Sector

YouthLink Scotland welcomes the Draft Guidance's recognition of the significant role which the voluntary sector plays in supporting vulnerable young people, and in addressing their needs. It is, however, sometimes difficult for the voluntary sector to provide services and support because of a lack of resources, insecurity over long term funding for projects, and related factors such as staff shortages. We consider that further thought should be given to the level of resources which will be made available to the voluntary sector to enable it to sustain its role in these areas.

Involvement of young people and their families

The emphasis in the Draft Guidance on keeping young people and their families fully up to date about the Hearings process is to be welcomed. YouthLink Scotland believes that the availability of the reports for children and their families, and their involvement in discussions about the menu of services and supports, will help to

promote the engagement of young people and their families in the Hearings process. This, in turn, could help to significantly increase the effectiveness of the supervision requirements.

Resources

YouthLink Scotland believes that sufficient resources must be put in place to ensure that all supervision requirements are fully implemented and effective. We welcome the steps which the Scottish Executive has put in place to provide extra resources in this area. YouthLink Scotland considers, however, that the Scottish Executive should hold regular discussions with the local authority community and with the voluntary sector to confirm that the level of resources is sufficient to ensure that all supervision requirements are fully implemented and effective.

Failure to provide education for excluded children

Dundee City Council, one of YouthLink Scotland's member organisations, already has some evidence of success with excluded children whose cases are discussed in multi-agency School Referral Teams. YouthLink Scotland supports Dundee City Council's recommendation that the Scottish Executive should recognise the value of offsite alternative education provision in managing the exclusions of those pupils or young persons who have either conclusively failed to respond to available onsite support or who represent an active danger to others in the open environment of mainstream school.

YouthLink Scotland is also aware that many excluded children have additional support for learning needs. We believe that the Scottish Executive should work closely with local authorities to ensure that sufficient resources, education facilities and education placements are available to meet these needs.

Please do not hesitate to contact me if you require more information, or would like to discuss this matter further.

Kind regards

Yours sincerely

Maureen Mallon
Head of Development