

**City of Edinburgh Council's response to consultation on review of Part 1 of the Children (Scotland) Act 1995 and creation of a Family Justice Modernisation Strategy.**

**Q7) What steps should be taken to help ensure children continue to have relationships with family members, other than parents, who are important to them?**

As a Corporate Parent we have a duty to protect children in our care and a responsibility to ensure contact between children and family members does not place children at risk of harm. At the same time, we are committed to ensuring that all Child Plans are child centred, the aim being for children to identify significant people in their lives and include these people in planning how best to meet the care and welfare needs of children in the care of the Local Authority. This should be addressed through Multi Group Decision Making forums and in LAAC Reviews. They should be reviewed regularly and monitored for necessary changes.

An important aspect of this responsibility is on the promotion and maintenance of sibling relationships. Scarce resources in the form of sibling placements in foster care often mean that siblings are separated at the point of being accommodated. They may also have siblings in; Kinship Care, adoptive placements, or who may be still in the family home.

The promotion of sibling contact would be better informed and supported by the changes suggested by Clan Childlaw and also supported by the organisation 'Stand Up For Siblings' of which CEC is a member.

1. Clarifying section 11 of the Children (Scotland) Act 1995 to make it clear that court orders under that section may relate to sibling contact and that siblings, including those under the age of 16, can apply for contact (see also Question 9).
2. Introducing duties on courts in family actions to:
  - (a) consider a child's sibling relationships, as identified by the child;
  - (b) seek and have regard to the views of the child in respect of those relationships;
  - and
  - (c) intimate to such persons, and to seek and have regard to such views as they express.

**Q8) Should there be a presumption in law that children benefit from contact with their grandparents?**

Yes **X**

**Why did you select the answer above?**

Where there are existing relationships between children and their grandparents they should be considered to be significant people in the child/ren's lives. As already stated in our response to Q7, this needs to be child centred and where safe to do so, relationships should be maintained. Contact between children and their grandparents should be ruled out on evidence that it is not in the best interests of the child for it to take place, rather than grandparents having to seek legal action.

**Q9) Should the 1995 Act be clarified to make it clear that siblings, including those under the age of 16, can apply for contact without being granted PRRs?**

Yes X

**Why did you select the answer above?**

Whilst CEC is promoting sibling relationships within its' own processes and procedures, it is frustrating for practitioners to encounter the prioritisation of parental contact over and above that of contact with siblings and other family members. This is most commonly experienced in Children's Hearings and in Court. The ability of young people to seek and achieve contact with their siblings through the current legal system is minimised by their age and the entitlement to Legal Aid.

CEC support the amendments to section 11 of the Children (Scotland) Act 1995 proposed by Clan Childlaw as follows:

11. Court orders relating to parental responsibilities etc.

(1) In the relevant circumstances in proceedings in the Court of Session or sheriff court, whether those proceedings are or are not independent of any other action, an order may be made under this subsection in relation to –

(a) parental responsibilities;

(b) parental rights;

*(ba) contact with siblings;*

(c) guardianship; or

(d) subject to section 14(1) and (2) of this Act, the administration of a child's property.

**Q10) What do you think would strengthen the existing guidance to help a looked after child to keep in touch with other children they have shared family life with?**

Current guidance recognises the need to promote and nurture sibling and familial relationships for children in the care of Local Authorities; (Guidance on Looked After Children (Scotland) regulations 2009 and the Adoption and Children (Scotland) Act 2007.)

However, it does not place a statutory duty on Local Authorities to prioritise contact between siblings/children who have shared family life. Sibling contact often takes place at the same time as contact with parents/adults with parental responsibilities. This places a strain on siblings as the focus is on gaining parental attention rather than supporting and strengthening the relationships between the children.

CEC propose that this aspect of a child's life should be incorporated into Child Protection processes and highlighted as an area of a child's life which must be considered. There should be a clear risk assessment, a clear rationale along with a review date in order to rule out such contact. There should be an ongoing review of all plans to address changes.

As a member of 'Stand Up For Siblings' we also support making changes to legislation which would extend the duties on Local Authorities to address sibling placements and ongoing sibling contact where it has been assessed as being safe to do so.

Clan Childlaw have proposed the following amendments:

Add a new section 17(1)(ba) and amend section 17(1)(c) of the Children (Scotland) Act 1995 as follows:

“(1) Where a child is looked after by a local authority they shall, in such manner as the Secretary of State may prescribe –

...

*(ba) consider placing siblings together; and*

*(c) take such steps to (i) promote, on a regular basis, personal relations and direct contact between the child and any person with parental responsibilities in relation to him (ii) promote and facilitate, on a regular basis, personal relations and direct contact between the child and any siblings of the child, as appear to them to be, having regard to their duty to him under paragraph (a) above, both practicable and appropriate.”*

Add a new section 17(8) as follows:

*“(8) Any reference in this section to a sibling includes any full sibling, half sibling, step sibling by virtue of marriage or civil partnership, sibling by virtue of adoption, and any other person the child regards as their sibling and with whom they have an established family life.”*