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SCOTLAND'S CHILD WELFARE AND PROTECTION SYSTEM

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Zusammenfassung | Der Artikel gibt Überblick über die wesentlichen demografischen Entwicklungen in Schottland und fasst die Arbeitsweise des nationalen Kinder- und Jugendschutzes zusammen. Hierbei werden vier miteinander verbundene Aspekte der schottischen Sozialpolitik beleuchtet: Dies ist zum einen das Anhörungssystem für Kinder, zum zweiten die Aktion "Getting it Right for Every Child" sowie drittens der ganzheitliche systemische Ansatz der Jugendgerichtsbarkeit. Abschließend wird der schottische Kinderschutz unter dem Gesichtspunkt der Erfordernisse für eine effektive Zusammenarbeit zwischen Sozialer Arbeit und Polizei untersucht.

Abstract | This paper provides an overview of Scotland's key demographics and summarises how the nation's child welfare and protection and system operates. It highlights four interconnected aspects of social policy in Scotland. These are first the Children's Hearings System, secondly "Getting it Right for Every Child" and third the Whole System Approach to Youth Justice. Fourth and finally the paper will consider Scotland's Child Protection system focusing on the need for effective collaborative professional relationships between social workers and police officers.

Keywords ► Soziale Arbeit
► Polizei ► Kooperation ► Kinderschutz
► Großbritannien

Introduction | The paper notes that child protection has become, arguably, the public issue of our time (Spratt et al. 2015). This is demonstrable in a number of ways, the most apparent being the widespread coverage in the media of untoward childhood events, often involving the death of children at the hands of care-givers. The paper concludes by highlighting a recent high profile child death, which sadly characterises Spratt's observation, whilst noting the importance of developing a shared collaborative professional value base; among, with and

across all those who work in all parts of the children's services workforce (Taylor et al. 2011, Hill et al. 2012).

A key feature of the Scottish system which is discussed below is the close cooperation between Social Work, Education, Police and Health Services. For example, one issue which public agencies in Scotland have tried to address is young people and knife crime. This has reduced significantly in Scotland in recent years largely due to the police leading an interagency response and framing it as both a *public health* as well as *criminal concern* (Carnochan 2012). This interagency approach, whilst not without its critics, has been credited with very positive outcomes in relation to other social problems including significant reductions in levels of youth crime and child sexual exploitation (Scottish Government 2017).

Scotland's Demography | It should be noted that in common with many other European countries, Scotland has a largely ageing population of 5.25 million people and forms part of the UK which has a population of 64.5 million.¹ Scotland is comprised of large cities and towns concentrated in a densely populated central belt, semirural/rural lowlands and sparsely populated uplands and islands (Coles et al. 2016). Child care, education and justice including police services are political responsibilities which have been fully devolved by the UK parliament to the Scottish Parliament since 1999. Scotland now has a single national police force which was formed in 2013, Police Scotland. Social work is a local authority responsibility delivered by 32 unitary local authorities. These vary in size from Glasgow, with a population of 621,000, to the Orkney Islands with a population of 22,000. As in the rest of Europe we have a rich local government tradition dating back to the middle ages.

The National Health Service and Police Scotland are directly financially supported by Scottish government and their work is overseen by "arms length" bodies who are responsible to Scottish Government Ministers.

In 2011, Scotland's population was estimated to be 5,254,800. This represents an increase of almost 200,000 in the decade since the 2001 census. Following a period of decline in the latter half

of the 20th century, Scotland's population is increasing steadily, fuelled mainly by immigration from England and further afield, but also supported by an upswing in the domestic birth rate.²

As in other post industrial economies, Scotland has significant health inequalities (Craig 2017). These are linked to a range of interconnecting issues. This includes genetic factors and poor living conditions which are known to have a significant impact on individual health outcomes. These are in turn exacerbated by harmful behaviours including poor diet, smoking, substance misuse and lack of exercise (Taylor 2016, p. 388). Excessive alcohol consumption is a particularly distinct part of Scottish culture and has resulted in strenuous public efforts to reduce access to alcohol, control advertising and most recently increase pricing. Whether these interventions will succeed in changing Scotland's relationship with alcohol, remains to be seen. It is important to note that alcohol and drug misuse impacts on parenting capacity and contributes significantly to the high levels of child neglect in parts of the country. This is of direct relevance to the operation of our child protection system.

Overall whilst life expectancy has increased in Scotland in recent years, mortality rates remain stubbornly linked to deprivation. Despite this history of socioeconomic disadvantage, the Scottish government has repeatedly stated its desire for Scotland to be the best place in the world for children to grow up. This highly ambitious aspiration is underpinned by a cluster of policy instruments including "Getting it Right for Every Child" (which is discussed below), early years investment and a sharp focus on inclusive school based education.

Using the typology referred to by Spratt et al. (2015) Scotland's approach to child welfare and protection sits within the Anglophone tradition. Little attention has been paid to developments in Europe other than recent interest in social pedagogy; which has focused largely on the German tradition.

Lorenz has commented that social work in Scotland sits at the "fault line" between the state and the family and perhaps as a result, considering child protection assessments in particular, significant

¹ <http://worldpopulationreview.com/countries/scotland-population/>

² <http://worldpopulationreview.com/countries/scotland-population/>

expertise has been developed in risk assessment and diagnosis. The downside of this however is that insufficient attention has been or may be paid to strengths and positives in any family or given situation (Lorenz; Fairgon 2012, p. 80).

This paper will now address the key parts of our system as set out in the introduction.

Scotland's Children's Hearings System | The Scottish Children's Hearings System was introduced in 1971 by the Social Work (Scotland) Act 1968. The system followed the recommendations of the Kilbrandon Report of 1964 which reviewed Scotland's systems of child welfare and justice. The most significant difference was that the Kilbrandon committee had envisaged that Social Education Departments (located within the then local Authority Education Departments) would operate as a Matching Field Agency to support the work of the Juvenile Children's Panel. The agency would provide the support that the Panel would require for example by providing reports on children and supervising children as required by the Panel.

When the 1968 act was introduced, however, new Social Work Departments were created through the same legislation which created the Children's Hearings System. There was a strong focus on social education, and the child's "upbringing". Concepts drawn from Germany and Scandinavia, where the philosophy and profession of "social pedagogy" was already well established. As the report noted: "From the earliest age of understanding, every child finds himself part of a given family and a given environment – factors which are beyond his or society's power to control. During childhood the child is subject to the influences of home and school. Where these have for whatever reason fallen short or failed, the precise means by which the special needs of this minority of children are brought to light are equally largely fortuitous. The individual need may at that stage differ in degree, but scarcely in essential character, and such children may be said at present to be, more than most, in a real and special sense, hostages to fortune" (Scottish Home and Health Department; Scottish Education Department 1995, para 251).

The Children's Hearings System therefore sought to deal in the same way with children who needed

some form of public intervention *either* for the sake of their care and protection *or* on account of their (mis-)behaviour, including so called offending behaviour. In summary, there is no distinction between children who are at risk of either physical, sexual and emotional abuse and neglect and those who have committed a criminal offence; although legal measures are in place for those children involved in the most serious offences.

The professional supporting the Children's Panel was to be called "The Reporter", generally someone who was trained as a lawyer or social worker. The Reporter would oversee the referral process, screen reports and provide legal guidance to Panel members. The Reporter considered all referrals and diverted children from formal processing if this was felt to be in their best interests.

When children's cases were dealt with formally, in all but the most serious cases, the decision about what should happen was made by a panel of three lay members from the local community, not by juvenile or youth courts as happens in nearly all other jurisdictions (Hill et al. 2007). Moreover, hearings took place in ordinary rooms rather than in court-like settings. They were designed to have a non-adversarial approach with round table discussion by panel members, children, relatives and professionals (Connelly; Milligan 2012).

The Hearings System has been modified several times over the years in response to a range of influences, including research evidence, internal discussions, political considerations and the European Convention on Human Rights. Much of this research and wider societal change led to the need to review the original system and the introduction of "Getting it Right for Every Child" which is discussed below.

Getting it Right for Every Child | The origins of Getting it Right for Every Child (GIRFEC) developed from a review of Scotland's Children's Hearings System (Scottish Executive 2004) which called for the early identification of needs and risks and prompt intervention in children's lives. This led to a wider enquiry into Scottish children's services in general, based on concern that children were not always able to access the services they needed when they needed them and a consensus that radical change was required.

Justification for the GIRFEC approach was obvious. There was wide variation in the circumstances and expectations of children, young people, and their families and no single service or agency could be expected to meet all of their needs. GIRFEC proposed the improvement of children's services by encouraging closer integration of policy and practice at both national and local levels, so that agencies and practitioners could work together, around children's needs, to ensure that children received the help they needed when they needed it (Coles et al. 2016, *Aldgate* 2011, p. 129).

The Children and Young People (Scotland) Act 2014 which passed into law in February 2014 was extensive and included kinship care, preschool education, and the needs of care leavers. The GIRFEC Framework included tools which were designed to transform the way in which services were delivered. It recognised that in order for Scotland to become "the best place in the world for children to grow up" there was a need for significant change at all levels in the system, including culture and practice. This approach would help ensure that the GIRFEC core components are in place. These were as follows:

- ▲ a focus on improving outcomes for children, young people, and their families, based on a shared understanding of wellbeing;
- ▲ a common approach to gaining consent and to sharing information where appropriate;
- ▲ an integral role for children, young people, and families in assessment, planning, and intervention;
- ▲ a coordinated and unified approach to identifying concerns, assessing needs, and agreeing on actions and outcomes, based on the well-being Indicators;
- ▲ streamlined planning, assessment, and decision-making processes that lead to the right help at the right time;
- ▲ consistent high standards of cooperation, joint working, and communication where more than one agency needs to be involved, locally and across Scotland;
- ▲ a Named Person for every child and young person and a Lead Professional (where necessary) to coordinate and monitor multiagency activity;
- ▲ maximizing the skilled workforce within universal services to address needs and risks as early as possible;
- ▲ a confident and competent workforce across all services for children, young people, and their families;

- ▲ the capacity to share demographic, assessment, and planning information electronically within and across agency boundaries.

Getting it Right for Every Child 2012 |

Whilst this has presented significant challenges for agencies, the main public services, Police, Education, Health, Social Work and Youth and Community Services have been committed to effective implementation. Key to the successful implementation has been an integrated approach and the use of a single shared assessment framework and a single child's plan both owned and supported by relevant agencies. In summary GIRFEC has required realignment of all child care services and reshaping of culture and practice across the children's services sector. The central message has been the importance of early intervention to create positive outcomes for vulnerable children. The original proposals which laid out the vision for GIRFEC, were based on eight indicators of wellbeing. All children should be:

- ▲ safe;
- ▲ healthy;
- ▲ active;
- ▲ nurtured;
- ▲ achieving;
- ▲ respected;
- ▲ responsible;
- ▲ included.

Under the GIRFEC approach, all agencies are responsible for the wellbeing and development of all children. Where additional intervention is deemed necessary, for example when a child has been assaulted by a parent, this requires the identification of a lead professional, who is generally from the agency which carries the greatest responsibility for the child during whatever stage they are at in their life. For example, a named health visitor for children aged under five or a named school teacher for children who are in primary or secondary education.

It should be noted that there has been a significant debate in Scotland about the proposed introduction of an extension of one aspect of this legislation, the Named Person. The legal intention being that all children in Scotland would be provided with a Named Person. This person would listen, advise and help a child or young person. This was viewed with deep suspicion by a number of interest groups in Scotland,

principally as it was felt to represent an unwarranted extension of the state into private family life and an erosion of parental rights and duties. The proposed introduction of legislation supporting this was ruled against by the UK Supreme Court in July 2016.

Turning now to the needs of children whose behaviour brings them into conflict with the law. The paper will consider a development which addresses the needs of young people involved in offending, the Whole System Approach.

Whole System Approach | The Whole System Approach (WSA) builds on the Children's Hearings System. It also seeks to ensure that GIRFEC is extended to cover the needs of young people in conflict with the law. The WSA approach acknowledges that many of those children guilty of criminal offending may also be or have been victims of parental neglect or physical, sexual or emotional abuse.

WSA aims to identify, at the earliest opportunity, when a young person is in trouble to ensure that systems and process are in place across both the Children's Hearings system and the adult criminal justice System. Efforts are then made to tailor appropriate individual or group based interventions to meet needs and address risks and concerns (Lightowler et al. 2014). WSA has six elements:

- ▲ early and effective intervention;
- ▲ maximising opportunities to divert young people from prosecution;
- ▲ providing court support to young people;
- ▲ increasing community alternatives to secure care and custody;
- ▲ changing behaviours among those in secure care and custody;
- ▲ improving re-integration back into the community.

The initial focus of the Whole System Approach has been to try to improve outcomes for young people up to the age of 18. The practice changes that have taken place to date have been very positive especially in relation to numbers of young people being diverted from prosecution in Court.

Child Protection in Scotland and the Role of Police Scotland | As noted above the policy discourse across Scotland is explicitly community-focussed in relation to large areas of public service,

such as social services, education and health. This has influenced the dominant model of policing in Scotland, Community Policing. This approach is core to effective public safety in so far as it creates public reassurance and focussed response policing (Carnochan 2012).

Community Policing involves engaging with the public pro-actively, rather than in response to incidents, in order to reduce the likelihood of crime taking place. Police Scotland have a role in both apprehending people who have committed offences and also helping and supporting the community. The Community Policing Approach recognises that protecting members of the public and preventing crime are responsibilities which require to be shared with other agencies and citizens as a whole. Again as noted by Carnochan, police officers have a vital role to play in safeguarding children as part of their general duty to protect life. If a child is ill-treated by a stranger or family member, the perpetrator will often have committed an offence against a minor, and police are required to investigate the crime and take necessary legal actions to deal with it. Dilemmas may however arise if a child wants abuse to stop but, if it is a family member, may not want the abuser to be imprisoned. It should be noted that in Scotland whilst a police officer has the responsibility to charge adults, the responsibility to prosecute rests with the Crown Office and Procurator Fiscal Service.

Joint Police Social Work Investigations | It is now standard practice for allegations of harm to children to be jointly "investigated" by police and social work personnel. In the past, the police gathered evidence in relation to a suspected crime towards children, while social work services assessed and acted to protect the children. Now contacts with children and their families for both purposes are combined and coordinated, in particular to avoid duplication and reduce the stress on children. Similarly, medical assessments are carried out jointly by NHS and police doctors. If a child needs immediate medical treatment, this takes precedence over any investigative requirement.

When there are grounds for suspecting that abuse has taken place, police will be involved in information sharing and case conferences to assess the risks and needs of children who have been abused and to plan

appropriate action. At times this responsibility includes identifying whether organised crime is taking place, in the form of human trafficking, child pornography or organised forms of child abuse. There are also occasions where close interagency cooperation is required to support the gathering of evidence.

The Child Protection Improvement Programme (*Scottish Government* 2017) has refreshed Scotland's approach to child protection stating that it aims to "keep children safer from abuse and neglect by placing the wellbeing of children at the heart of everything it does". It is rooted in GIRFEC and seeks to intervene early in the lives of children and families by empowering front line practitioners to step in when other forms of support are not working. The national programme has underlined the effectiveness of a range of well-established initiatives. This includes Child Protection Committees. These committees are local authority wide multi agency groups whose membership includes representatives from police, social work, education and health. Their responsibilities include overseeing workforce development strategies to support education and training principally for front line staff; much of this is interdisciplinary and some is highly specialised.

Specialised training includes mandatory training for police officers and social workers who must undertake a five day specialised joint investigation course. A central part of this course involves use of professional actors who provide participants with very direct and constructive feedback based on role play. During this course they are required to achieve competency in interviewing child victims of abuse using digital video recordings. These Video Recorded Interviews (VRI), as they are called, require local authorities to have a rota of social workers available to carry out child friendly investigations in conjunction with specialised police officers deployed to public protection units which are in turn overseen by detective superintendents, from Police Scotland.

Specialist Police Scotland protection teams are made up from officers selected for their ability to work sensitively with distressed children and young people. Non-uniformed police officers within these units will generally agree with their social services counterparts how individual investigations will be carried out. Social workers and police officers under-

taking this role are required to:

- ▲ be briefed and debriefed by more senior social workers and detectives;
- ▲ carry out the interviews in either specialist suites (the quality of which varies) or use portable equipment in a setting where the child is likely to feel safe (for example a school or social work office);
- ▲ be prepared to be questioned in court on the recordings which may be submitted as evidence in criminal court proceedings.

Joint police and social work interviews are only carried out with victims. Investigative interviews with alleged perpetrators are carried out by two police officers in the usual manner. Quality assurance processes are in place which require senior social workers and police officers to regularly view and comment on recordings and maintain oversight of how many joint investigative interviews take place and where these have been held.

This oversight creates the opportunity to address operational issues that may emerge. These may be as simple as transport issues, including travel, a major problem in Scotland's industrial central belt. This management oversight also provides an opportunity to address tensions which may arise for example where there are different operational priorities between social work agencies and Police Scotland. This arrangement also allows both agencies to discern patterns and challenges. Recent examples have been the increase in cases of child neglect in Scotland or determining the most effective response when the offence relates to downloading internet pornography and the perpetrator is also the father of young children.

The Child Protection Committee also receives reports on the Child Protection Case Conference process. This is a professional/administrative inter-agency meeting that, where possible, involves parents and children and makes recommendations following reports related to incidents of child abuse. One of the most important recommendations is whether the child/children's names should be placed on the Child Protection Register. Whilst a case conference is an administrative process, which may be supported by other legal interventions, through the Children's Hearings or Court System, it is given the highest priority by all of the agencies involved.

Generally, it brings to bear a range of supports and resources to support children and their families.

When things go wrong and the processes described above do not operate effectively, the Child Protection Committee also have a responsibility to commission and receive special reports, initial case reviews and significant case reviews (for the most serious incidents). An example of this is any incident where a child dies and there is a degree of failure at an institutional level. The focus of these reviews is to develop learning organisations in order that all those involved in the child protection system can learn and change to avoid problems in future. A recent report from Glasgow Child Protection Committee on the tragic death of *Lauren Wade* can be accessed at <https://www.glasgowchildprotection.org.uk/index.aspx?articleid=1653>.

Conclusion | This paper has considered four aspects of Scotland's system of child welfare and protection. The Children's Hearings System, Getting it Right for Every Child, The Whole System Approach and the nation's Child Protection arrangements. The Children's Hearings System has been described by some as a genius of reform (*Hope* 2015), and others as a jewel in the crown of Scottish civic life (*Coutts* 2018). The Children's Hearings System operates in two highly emotional areas of social policy: child protection and criminal justice. Getting it Right for Every Child and the Whole System Approach are extensions of the original Kilbrandon philosophy and are being utilised to help achieve the Scottish government's ambition that Scotland is "the best place to grow up" for every child.

Whilst there has been considerable international interest in Scottish systems of child welfare over the decades, few other state bodies have sought to replicate the Children's Hearings System. Other aspects of our approach to meeting the needs of Scotland's children, including GIRFEC, the WTA and our child protection processes are perhaps more comparable with other European countries. Scotland's system of Significant Case Reviews as noted above and stated policy intention of making these publicly available acknowledges that, as a nation, whilst we do not have all the answers there is a willingness to learn and openness to improve upon and develop our current systems.

Much of this paper has been concerned with systems and the need most especially for police officers and social workers to work collaboratively. This need for collaboration at a micro level is indicative of the move towards a wider, more strategic set of sectoral changes as the edges of organisations "become more diffuse and there is a greater emphasis on networks of expertise distributed across a range of locations" (*Cooper; Dartington* 2004). The use of this expertise is largely dependent on shared values. This includes recognising and respecting the core professional identities of social workers and also police officers. It means being open to the expertise of those outside one's own profession and being prepared to respect not only their professional viewpoints but also, at times, their very different legal and ethical accountabilities. In closing this paper I will share the thoughts of an experienced and respected social work colleague of whom I asked the question, what is it like when a joint investigation goes well.

"When an investigation goes well, the digital recording equipment is reliable and there are no difficulties with transport. The police officer is experienced both in investigation and comfortable in working with children. Both professionals will know each other, having worked together before. I am also more relaxed if the interview takes place in a social work office rather than police station. When all this is in place we can focus first and foremost on the welfare of the child."

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ALLGEMEINES

Stiftung für den Rechtsstaat. Um die im Oktober 2018 beschlossene Gründung eines „Forums Recht“ voranzubringen, einigte sich der Bundestag am 22. März dieses Jahres auf ein Gesetz zur Errichtung einer Stiftung, die den Wert und die Bedeutung des Rechtsstaates stärker im Bewusstsein der Bevölkerung verankern soll. Vorgesehen ist, eine selbstständige Stiftung in Karlsruhe und einen Standort in Leipzig zu etablieren. Im Rahmen des Forums sollen aktuelle Fragen von Recht und Rechtsstaat als Grundvoraussetzung einer funktionierenden Demokratie aufgegriffen und für alle gesellschaftlichen Gruppen in Ausstellungen und Aktivitäten vor Ort und im virtuellen Raum erfahrbar gemacht werden, wobei historische, europäische und internationale Bezüge angemessen zu berücksichtigen seien. Die Eröffnung der Stiftung ist für das Jahr 2026 geplant. *Quelle: Das Parlament Nr. 13-14 vom 25.3.2019*

Streit um Gender-Forschung. Am Zentrum für Gender Studies und feministische Zukunftsforschung an der Philipps-Universität Marburg wird seit Oktober 2017 das vom Bundesministerium für Bildung und Forschung (BMBF) geförderte interdisziplinäre Forschungsprojekt „REVERSE – Krise der Geschlechterverhältnisse? – Anti-Feminismus als Krisenphänomen mit gesellschaftsspaltendem Potenzial“ durchgeführt, das sich mit der Kritik am Wandel der Geschlechterverhältnisse und an staatlichen Gleichstellungspolitiken auseinandersetzt. Die AfD stellte der Bundesregierung in einer Kleinen Anfrage vom 11. März dieses Jahres einige Fragen zu diesem Projekt. Unter anderem wollte die AfD in Erfahrung bringen, aufgrund welcher Überlegungen die Bundesregierung zu dem Entschluss kam, das Projekt mit einer Summe von 975 000 Euro zu fördern und inwieweit die Bundesregierung Förderprogramme plane, die sich wissenschaftlich mit der „immer weiter um sich greifenden Männerdiskriminierung“ beschäftigen. In ihrer Antwort vom 27. März wies die Bundesregierung darauf hin, das Projekt REVERSE sei auf der Grundlage eines wissenschaftlichen Begutachtungs- und Auswahlverfahrens dem BMBF zur Förderung empfohlen worden. Grundsätzlich vertrete man die Auffassung, dass Bestrebungen, die sich gegen die Gleichberechtigung der Geschlechter richten, demokratische Werte verletzen. Bezüglich der von der AfD beobachteten „Männerdiskriminierung“ äußerte die Bundesregierung, diese sei ihr nicht bekannt. *Quelle: hib – heute im bundestag Nr. 352 vom 2.4.2019*

Engagement in der Caritas. Im Auftrag des Deutschen Caritasverbandes (DCV) führte das Institut für Angewandte Forschung, Entwicklung und Weiterbildung der Katholischen Hochschule Freiburg im Herbst 2017 eine internetbasierte „Erhebung zum caritativen ehrenamtlichen Engagement in der Caritas“ durch, wobei nicht die Ehrenamtlichen selbst, sondern die Institutionen adressiert