

Orkney Islands Council - Appendix 1

Chronological Legislation

Children and Young Persons (Scotland) Act 1932 and 1937

Children and Young Persons (Scotland) Care and Training Regulations 1933

Children (Boarding-Out etc.) (Scotland) Regulations 1947

The Children Act 1948

The Boarding-Out of Children (Scotland) Regulations 1959

Social Work (Scotland) Act 1968

The Children Act 1975

Boarding-Out and Fostering of Children (Scotland) Regulations 1985

Local Government etc. (Scotland) Act 1994

The Children (Scotland) Act 1995

Arrangements to Looked After Children (Scotland) Regulations 1996

Fostering of Children (Scotland) Regulations 1996

Looked After Children (Scotland) Regulations 1996

Regulation of Care (Scotland) Act 2001

Looked After Children (Scotland) Regulations 2009

Public Services Reform (Scotland) Act 2010

Children and Young People (Scotland) Act 2014

Development of Local Authority Responsibility

Under the Children and Young Person (Scotland) Act 1932, the person whose care the child is committed to shall, whilst the order is in force, have the same rights and powers, and be subject to the same liabilities in respect of his/ her maintenance as if he were the child's parents.

This is the only time in the legislative history that rights, powers and responsibilities rested with as a person a child was placed with. This was repealed by the social work Scotland act 1968 from which point decision making powers relating to children in care rested with the local authority.

Under the Children and Young Persons (Scotland) Care and Training Regulations 1933, education authorities were required to keep a list of foster carers. There was no mechanism to assess the fitness of prospective foster carers, there were just categories of persons excluded from becoming foster carers. Regulation 40 detailed what was expected of foster carers and Regulations 41 to 45 listed who was excluded.

When the Children (Boarding-Out etc.) (Scotland) Regulations 1947 came into force, local authorities then required to be satisfied that a foster carer was suitable, as opposed to not just being excluded. The Schedule set out the principles foster carers should follow. Children could be put to work under these Regulations. This changed in the following decade where the steer from the Scottish Advisory Council was to ensure that children were not worked hard, to prevent placements accepting children to put them to work.

The introduction of the Boarding-Out of Children (Scotland) Regulations 1959, developed the principle of suitability by stating that local authority should also satisfy themselves that the prospective foster home, and the household living there, were also suitable for the child. Visits to the household required to be undertaken by the Children's Officer, or other person, who was required to report unsuitability. Under these Regulations, a placement could be ended if it was no longer in the best interests of the child. This was an additional power granted to local authorities, as previously a child could only be removed if the foster placement failed to satisfy the conditions or Regulations. These Regulations also stated that records should be kept for three years after the child reached the age of 18, or until their death.

The Boarding-Out and Fostering of Children (Scotland) Regulations 1985 established, for the first time, fostering panels. Foster Carers could not be approved until the name, age, address, details of other household members, personality, religion, financial circumstances, reasons for fostering and attitude of other household members were established. These Regulations also introduced a requirement for Agreements with prospective foster carers. Regulation 14 also increased the definition of a suitable foster carer to include a man and woman living and acting together, or a man or a woman living and acting alone. Previously, only married heterosexual couples were eligible to foster. These Regulations also required a visit to take place within one week of the placement starting and then to be repeated every three months thereafter.

The Fostering of Children (Scotland) Regulations 1996 and the Looked After Children (Scotland) Regulations 1996, both of which came into force on 1st April 1997, required local authorities to have

a care plan for foster children. The information required was to be presented to fostering panels and remained the same, with the exception of requiring more details on the other household members. These remained in place until revoked by the Looked After Children (Scotland) regulations 2009, which remain in force to date.

Orkney Islands Council has documented adherence to updating its in procedures in light of any new requirements contained in new legislation. This is done at committee level.

Foster Carers had no special, statutory or other status. There is no record of how the local authority chose to classify them. The legal basis authorising or enabling a foster carer to become responsible for caring for children is detailed above. A foster carer did have a legal duty of care to each child in his or her care under common law as well as the requirements for foster carers that developed through the legislation, detailed above, and the Agreements entered into with the local authority. The common law duty of care was separate to the legal authority but, the rest was not, a foster carer was the means of fulfilling the legal responsibility of the local authority.

The Regulation of Care (Scotland) Act 2001 created the Care Commission, who had a duty to register and inspect all care services, including foster care. Care services were required to establish and operate a complaints procedure (Regulation 25). The Scottish Social Services Council was established for the education and training of social workers and remains in place to date. They produce training and guidance for social workers, along with practice codes and codes of conduct. They also require local authorities to hold a register of social workers and social service workers. The Care Commission was replaced by Social Care and Social Work Improvement Scotland (SCSWIS), which has come to be known as the Care Inspectorate, under the Public Services Reform (Scotland) Act 2010. The Care Inspectorate inspects care services to date.

Getting It Right For Every Child was published by the Scottish Executive in 2004. 10 years later the Children and Young People Scotland Act 2014 was enforced and required local authorities to have a Child's Plan for every child requiring anything beyond standard child services, such as education. Part 9 also enshrined the concept of corporate parenting in statute and the requirement to report to Scottish Ministers on how the local authority is exercising those responsibilities.

Current Aftercare on Young People Leaving Care

Through Care and Aftercare is provided to a young person leaving care until the age of 26. Previously, this was until the age of 21. This is provided by a dedicated social worker and a support worker. This could include financial assistance, where the young person is eligible, or advice and assistance.

Local Authority Staffing

There is no known record of the early staffing, other than there was a Children's Officer, Director of Social Work and then a Chief Social Work Officer, as required by legislation. There are currently the following posts in our Children and families Team:

7.2 FTE Social Work Officers

1.0 FTE Team Leader

2.8 FTE Family Placement Team Workers

1.0 FTE Senior Support Worker

1.9 FTE Support Workers

This is under the Chief Social Work Officer, currently interim, and Executive Director of Orkney Health and Care, currently interim.