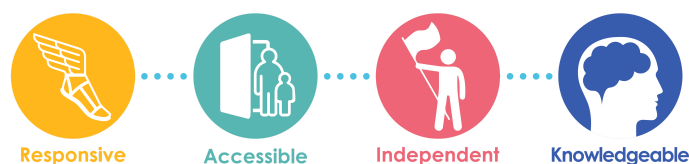


Framework for the support of families affected by the Justice System

Supporting Document

October 2021
3rd Edition



About the Supporting Document

This Supporting Document is designed to supplement the *Framework for the support of families affected by the Justice System*. Here, users of the Framework will find further information relating to the Framework's Outcomes and Recommendations including rationale and good practice examples.

The Supporting Document is a working document. It will be continually reviewed and updated to provide more information as it becomes available, further examples of good practice, or to highlight new key documents.

Information within the Supporting Document is organised and numbered by Outcome and Recommendation number as per the Framework itself. Examples of good practice and key resources are included in the shaded textboxes throughout the document.

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1

Families are included and
engaged

1.1

Understanding the process

Families understand what is happening at every stage of the criminal justice process

1.1.1 | Timely information

On admission and on a prisoner's transfer, prison authorities shall assist prisoners who wish to do so in informing their children (and their caregivers) of their imprisonment and whereabouts or shall ensure that such information is sent to them.

Council of Europe (2018) Recommendation 14

[The SPS will] Share information with families in line with Scottish Government Code of Practice, including any change of circumstances.

SPS Family Strategy 2017-2022

Scharff Smith and Gampell (2011) Recommendation

Prisoners, their relatives and their children should be offered appropriate, up-to-date and relevant information at each stage of the process – from arrest to release – about procedures and policies that affect them and affect family relationships.

Scharff Smith and Gampell (2011) Recommendation

[The SPS will] Provide families and those in our care with information in a range of formats including information booklets, websites in a range of languages and access to translation services to allow them to support family members during their time in custody.

SPS Family Strategy 2017-2022

1.1.2 | Support to understand the process

Children, young people and their families understand what is happening and why.

GIRFEC (2012)

Children should be provided with age-appropriate information about visiting procedures and arrangements, including information about what they are allowed to bring with them on visits and how the search procedures will be conducted when they arrive at the prison. Such information should be provided in a variety of formats (for instance, large print, 'easy read' versions, audio versions) and languages.

GOOD PRACTICE and KEY RESOURCES

HMP Edinburgh Visitor Booklets

Edinburgh Prison Visitor Centre has developed three booklets - Visiting Mum, Visiting Dad, and a Parent's Guide featuring artwork by visiting children and a step-by-step guide to the workings of Edinburgh Prison.

Families Outside Resources for Children

Families Outside produces a number of resources aimed at children and young people explaining what happens when a relative is sent to prison. For example, 'My Diary' is aimed at children of older primary school age, while 'My Story' and 'My Visit' are aimed at younger children. Families Outside also has a web-based e-learning resource, 'It's No Holiday', looking at the

experiences of young people with a family member in prison.

Sesame Street

Sesame Street has created the first Muppet with an imprisoned parent to help teach children how to cope when a parent goes to prison. The [Little Children, Big Challenges: Incarceration Initiative](#) is an online tool kit helps kids with a parent in prison find support and comfort and provide families with strategies and tips to talk to their children about imprisonment.

The SPS and NHS Forth Valley should consider developing a joint information pack for families about how the [suicide and self-harm strategy] works, with details of mental health support.

HMIPS (2019) Recommendation 13.4.3.1

1.1.3 | Age-appropriate support

Parents and carers should be supported and encouraged to tell children, in an age-appropriate way, the truth about their parent's situation and to better understand the potentially negative repercussions that lying can have on a child's development. Guidance should be prepared on appropriate ways of telling children about parental incarceration.

Robertson (2012) Recommendation

Children shall be offered the opportunity, when feasible and in the child's best interests, and with the support of an appropriate adult, to visit or receive information (including images) about areas in which their imprisoned parent spends time, including the parent's prison cell.

Council of Europe (2018) Recommendation 29

1.1.4 | Accused updating their family

1.1.5 | Finding out about wellbeing of family

1.1.6 | Families are told what has happened

The State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child.

UNCRC Article 9.4

How are arrangements made to inform children who are not present when the arrest takes place and to meet and escort them home or to an alternative carer?

Mason-White and Kearney (2012) Issues to consider | Arrest

1.1.7 Families informed they can provide belongings

One area which could be considered further by the division as partnership working is its engagement with the families of detainees. It is well known that families play a crucial role in the rehabilitation of offenders and families are often considered in policy and decision making regarding prisoners. There may be scope for the division to consider the role of the family at the earlier stage of police custody.... Upon notification of detention, some families take the opportunity to drop off reading materials for the detained person, or clean clothes for their court appearance. It is not clear, however, how families know that such arrangements can be made. Some custody staff may suggest it when notifying the family of the individual's detention, but this is not required nor routinely done.... communication with family while in custody, while not always appropriate, may nonetheless be helpful for some detainees.

HMICS (2019) Inspection of the strategic arrangements for the delivery of police custody, para. 173

1.1.8 | Families supported to attend trial

Children should be given individualised and age appropriate support to attend the

trial of a parent, where they wish to go and it is in their best interests.

Robertson (2012) Recommendation

States should progress towards having child-friendly justice systems that include children of incarcerated parents [as] an explicitly named and considered group.

Robertson (2012) Recommendation

1.1.9 Sentencing decision explained to family

1.1.10 and 1.1.11 | Family induction

The Scottish Prison Service should ensure consistency in the timely provision of all relevant information (including on the types of child-parent visits available at the prison) to children and families, including through family inductions at every establishment.

SCCYP (2011) Follow-up recommendation 14

Children should be provided with age appropriate information about visiting procedures and arrangements, including information about what they are allowed to bring with them on visits and how the search procedures will be conducted when they arrive at the prison. Such information should be provided in a variety of formats (for instance, large print, 'easy read' versions, audio versions) and languages.

Scharff Smith and Gampell (2011) Recommendation

Where possible, children should be able to see where their parents live in prison (i.e. be able to visit their parent's cell or be given a photograph of the cell) so as to reduce their fear and anxiety around what

happens to their parent when the child leave the prison after a visit.

Scharff Smith and Gampell (2011) Recommendation

Children shall be offered the opportunity, when feasible and in the child's best interests, and with the support of an appropriate adult, to visit or receive information (including images) about areas in which their imprisoned parent spends time, including the parent's prison cell.

Council of Europe (2018) Recommendation 29

Information on prison procedures and regulations, and the reasons for these procedures, should be provided to families ahead of visits. If families have to book visits in advance, information should be provided at point of booking. Information should be available in places that children and families may frequent (including police stations, courts, youth clubs, schools and websites)

Robertson (2012) Recommendation

Support and information shall be provided by the prison, as far as possible, about contact and visiting modalities, procedures and internal rules in a child-friendly manner and in different languages and formats as necessary.

Council of Europe (2018) Recommendation 15

1.1.12 | Understanding placement decision

1.1.13 | Families understand non-custodial measures

1.1.14 | Families under licence conditions

1.2

Aware of available support

Families are aware of the full range of information and support available to them and how to access this

1.2.1 – 1.2.2 | Access to information about support

States Parties... shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

UNCRC Article 17

A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

UNCRC Article 20.1

Children and their families should be told about support available to them, including organisations, telephone helplines and websites. Criminal justice and other officials should provide this orally and in writing, in forms and languages children of different ages and stages of development understand.

Robertson (2012) Recommendation

All places where children of those in conflict with the law come into contact with the criminal justice system, including

police stations, lawyers' offices, court holding cells and judges' benches, should display information about available support. Such information should also be available in other places children and families frequent, including schools, youth clubs and websites, as well as in prison for newly arrived prisoners.

Robertson (2012) Recommendation

Information about all the support available for children of incarcerated parents should be mapped, collected and disseminated, including in child-friendly formats.

Robertson (2012) Recommendation

Prisoners and their families, including children, should be provided with information about the support available to them before, during and after the period of imprisonment of a family member. Children should be provided with age-appropriate information about support which they can access separately from their parents, if such support is available (for example, through children's charities)

Scharff Smith and Gampell (2011) Recommendation

Staff who come into contact with children and their imprisoned parents shall respect their rights and dignity. Prison administrations should select, appoint and resource designated "children's and/or

family officers” whose role should include support for children and their imprisoned parents, facilitate visits in child-friendly settings, provide guidance and information, in particular to children newly confronted with the prison environment, and liaise with relevant agencies, professionals and associations on matters related to children and their imprisoned parents.

Council of Europe (2018) Recommendation 46

Is information about support for children and families, such as support groups, helpline numbers and website information, available and displayed in every place where they come into contact with the criminal justice system? E.g. lawyers’ offices, police stations, court holding cells and on judge’s benches? Is it available in other places children and families frequent, including schools, youth clubs and children’s centres, as well as in prison for newly arrived prisoners? Is information in a child-friendly format and in the language(s) the affected children know?

Mason-White and Kearney (2012) Issues to consider

If parental imprisonment takes place there must be wrap around support for the family, with planning for the likelihood of imprisonment and clear support for children who are impacted.

The Promise (2020)

GOOD PRACTICE and KEY RESOURCES

Circle

Circle’s Families Affected by Imprisonment project provides support to people in prison and their families, taking a whole family approach, to promote positive and sustained family relationships.

Family Contact Officers

Family Contact Officers are available at most prisons, offering support and information to families and visitors.

Families Outside

Families Outside is the only national charity in Scotland that works solely on behalf of children and families affected by imprisonment. Its Family Support Team operates a freephone national Helpline as well as locally-based Support Coordinators throughout Scotland to provide bespoke support over a longer period.

Prison Visitor Centres

Most Scottish prisons have independently-run visitor centres or visitor centre services to provide information and support to people visiting prisons. Overseen and supported by Families Outside, these services adhere to a National Performance framework to ensure consistency and quality of support.

Child Poverty Action Group Factsheet

The Child Poverty Action Group (CPAG) have a handy factsheet with welfare and financial support available to families affected by imprisonment which can be found at:
<https://cpag.org.uk/sites/default/files/files/resource/CPAG-scot-factsheet-financial-help-families-prison-May-2021.pdf>

1.2.3 | Help With Prison Visits Scheme

1.2.4 | Families Outside Helpline

Families Outside is the only dedicated Support and Information Helpline for families with a relative in prison. This is a confidential Freephone service to help families with any questions or concerns they may have while their relative is involved with the criminal justice system.

Freephone 0800 254 0088

support@familiesoutside.org.uk

1.2.5 | Prison Visitor Centres

Prison visitor centres should be developed and maintained as a way of providing fun,

information and social opportunities for children of incarcerated parents. They should be available to families before and after visits.

Robertson (2012) Recommendation

The National Performance Framework for Prison Visitor Centres can be found here:
<https://www.familiesoutside.org.uk/content/uploads/2017/06/FINAL-National-Performance-Framework-for-Prison-Visitor-Centres-in-Scotland-Review.pdf>

GOOD PRACTICE and KEY RESOURCES

Independently-run prison visitor centres exist at most of Scotland's prisons:

- Addiewell Prison Visitors' Centre is run by The Cyrenians.
- Visitors at HMP Barlinnie can receive support from The Croft.
- Visitors' Centres at Cornton Vale and Glenochil are run by Stirling Interfaith Criminal Justice Group
- Edinburgh Prison Visitors' Centre is a purpose-built facility, owned by the Onward Trust and managed by Barnardo's Scotland.
- The visitors' centres at HMPs Grampian and Inverness are run by Action for Children.
- Kilmarnock Prison Visitor Centre is run by Centrestage, which also operates a community-based support service.
- Perth Prison Visitors Support and Advice Centre and the visitors' centre at HMP & YOI Polmont are managed by Crossreach
- Visitor Centre Services operate behind the prison's secure lines at HMP Low Moss (run by Early Years Scotland) and HMP Shotts (run by Getting Better Together Shotts).

1.2.6 | Voluntary throughcare

[The SPS will] Include families in the planning and preparation for an individuals' return to the community.

SPS Family Strategy 2017-2022

1.3

Consulted at every stage

Families are meaningfully involved in decisions that will affect them

1.3.1 | Involved in decisions that affect them

Children, young people and their families are appropriately involved in discussions and decisions that affect them.

GIRFEC (2012)

Children (and families) of prisoners should be actively involved in decisions that affect them, in accordance with their age and maturity.

Robertson (2012) Guiding Principle

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

UNCRC Articles 12.1 and 12.2

Arrangements should be made to facilitate an imprisoned parent, who wishes to do so, to participate effectively in the parenting of their child, including

communicating with school, health and welfare services and taking decisions in this respect, except in cases where it is not in the child's best interests.

Council of Europe (2018) Recommendation 27

1.3.2 | Children involved in childcare decisions

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

UNCRC Articles 12.2 and 12.2

Children themselves should be able to participate and be heard in decisions about alternative carers.

Robertson (2012) Recommendation

Is the child's right to be heard respected in the provision of alternative care arrangements?

Mason-White and Kearney (2012) Issues to consider |
Trial and Sentencing

1.3.3 | Creative approaches to consultation

Are serious attempts made to facilitate child participation, beyond mere tokenism? This should involve child-friendly mechanisms such as art, games and group work, where children's voices are listened to as part of play, not exclusively restricted to a formal context.

Mason-White and Kearney (2012) Issues to consider |
Trial and Sentencing

1.3.4 | Families feel they have been heard

Children, young people and their families have been listened to carefully and their wishes have been heard and understood.

GIRFEC (2012)

1.3.5 | Accessible complaints systems

[The Scottish Prison Service will] Ensure that families know how to raise complaints so that we can gather and analyse feedback to improve local practices.

SPS Family Strategy 2017-2022

1.3.6 | Consulted regarding sentencing decisions

See 1.3.6: Impact assessments are used

The needs, views and rights of children must be taken into account as part of sentencing decisions. Failure to do that means that criminal courts do not have a holistic view of the impact of imprisonment.

The Promise (2020)

1.3.7 | Involved in case conferences

[The SPS will] Provide opportunities to work more holistically with families involving them in

their family member's time in custody e.g. encouraging/supporting attendance at Case Conferences and other identified supports or interventions, including the opportunity to discuss afterwards.

SPS Family Strategy 2017-2022

1.3.8 – 1.3.9 | Involved in planning for release and resettlement

Children of incarcerated parents should be consulted and their views considered when decisions are made about sentence progression, resettlement and release of incarcerated parents.

Robertson (2012) Recommendation

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

UNCRC Articles 12.2 and 12.2

In order to enhance child-parent relationships, prison authorities shall utilise options such as home leave, open prisons, halfway houses, electronic monitoring and community-based programmes and services to the maximum possible extent, to ease transition from prison to liberty, to reduce stigma, to re-establish with families at the earliest possible stage and to

minimise the impact of a parent's imprisonment on children.

Council of Europe (2018) Recommendation 42

Decisions regarding early release shall take into account prisoners' care giving responsibilities, as well as their specific family reintegration needs.

Council of Europe (2018) Recommendation 43

[The SPS will] Include families in decisions that may involve or affect them e.g. progression, Home Detention Curfew (HDC), release dates, accommodation, licence conditions, and support for substance misuse.

SPS Family Strategy 2017-2022

2

Families are connected

2.1

Visiting and physical contact

Positive family relationships are encouraged through physical access to the family member involved with the criminal justice system

2.1.1 | Visits are the right of the family

In 2008, Scotland's then Commissioner for Children and Young People highlighted that the legal minimum of visits was quite low, lower often than actual practice. She expressed concern that if the reality is not safeguarded this 'opens the door for visits to be withdrawn as a punishment. This may be appropriate when a visit is seen as a privilege of the offending parent but not where it is viewed as the right of the innocent child'.

Marshall (2008), p5

Scottish Ministers should consider reviewing the Prison Rules with the Scottish Prison Service with a view to raising the basic legal entitlement to visits to reflect actual practice. Further, quality bonding visits should be available in all prisons in Scotland and should be regarded as a right of the child rather than a privilege of the offender.

Marshall (2008) Recommendation 16

The Scottish Prison Service should review its disciplinary arrangements to ensure that decisions to reduce visiting or impose closed visits take specific account of the rights of any children affected.

Marshall (2008) Recommendation 17

The Scottish Prison Service should continually reinforce the very important principle that visits, including child-focused

or 'bonding' visits need to be seen as the child's right, and must not be used as a disciplinary measure or punishment against the prisoner. The SPS should consider including this principle in the revised Prison Rules. This should be an area of particular attention in SPSs ongoing work to measure and drive implementation of the Guidelines across the estate, and be a regular feature of staff induction, training and appraisal.

SCCYP (2011) Follow-up recommendation 16

Prison visits and other interaction with an incarcerated parent is the right of the child and should not be dependent on or restricted by the parent's behaviour, unless this is in the best interests of the child. Threats of or actual removal of contact should form no part of prison discipline.

Robertson (2012) Recommendation

The needs of children should be paramount in the development of law and guidelines on prison leave and their implementation. Additional contact with children should never be treated as an "award" under the system of prison privileges dependent on the behaviour of a prisoner. Neither should prisoners be deprived of such contact as a disciplinary measure.

Scharff Smith and Gampell (2011) Recommendation

A child's right to direct contact shall be respected, even in cases where disciplinary sanctions or measures are taken against the imprisoned parent. In cases where security requirements are so extreme as to necessitate non-contact visits, additional measures shall be taken to ensure that the child-parent bond is supported.

Council of Europe (2018) Recommendation 31

2.1.2 | Saying goodbye

2.1.3 | Visiting shortly after detention

Is contact between parent and child allowed shortly after arrest, so as to allay the child's concerns regarding the parent's safety and well-being?

Mason-White and Kearney (2012) Issues to consider | Arrest; Imprisonment

A child should have the right to visit his or her imprisoned parent in an appropriate setting within one week of the initial imprisonment and frequently thereafter.

Scharff Smith and Gampell (2011) Recommendation

Children should normally be allowed to visit an imprisoned parent within a week following the parent's detention and, on a regular and frequent basis, from then on. Child-friendly visits should be authorised in principle once a week, with shorter, more frequent visits allowed for very young children, as appropriate.

Council of Europe (2018) Recommendation 17

2.1.4 | Access to the accused pre-trial

Visiting and family contact for pre-trial detainees is often far more restricted than

for convicted prisoners so as to limit the possibility of prejudicing the trial. This clearly impacts on the children of the alleged offender.

Mason-White and Kearney (2012)

Unless it has been judged not be in their best interests, children should have access to parents in pre-trial detention by default, facilitated by the detaining authority.

Restrictions should only be permitted when the detaining authority has shown reasonable grounds for doing so.

Robertson (2012) Recommendation

Enforcing restrictions on contact of an arrested or a remanded parent shall be done in such a way as to respect the children's right to maintain contact with them.

Council of Europe (2018) Recommendation 9

2.1.5 – 2.1.6 | Prisoner placement and family best interests

The child's best interest must be considered when a parent is sentenced, with regard to both the choice of punishment and, if imprisoned, the choice of where the sentence is served so as to ensure the possibilities for face-to-face contact between the child and the parent during the stay in prison.

Scharff Smith and Gampell (2011) Recommendation

If the parent is found guilty and obliged to serve a custodial sentence, will he or she be placed in a correctional institution that is close to and accessible from where the child is/will be living? Can it be guaranteed that the offender will remain

in proximity to the child for the duration of their sentence?

Mason-White and Kearney (2012) Issues to consider | Trial

Apart from considerations regarding requirements of administration of justice, safety and security, the allocation of an imprisoned parent to a particular prison, shall, where appropriate, and in the best interests of their, be done such as to facilitate maintaining child-parent contact, relations and visits without undue burden either financially or geographically.

Council of Europe (2018) Recommendation 16

2.1.7 | Visits booking system

2.1.8 | Efficient visiting procedures

Arrangements for admitting family members and friends into the prison are welcoming and offer appropriate support. The atmosphere in the Visit Room is friendly, and while effective measures are adopted to maintain security, supervision is unobtrusive.

HMIPS, Inspection and Monitoring Standard 6.10

2.1.9 | Aware of visit entitlement

See 1.1.10: Family Induction

2.1.10 | Child-friendly facilities

Facilities should be available to meet the needs of children visiting prison, including access to toilets, play spaces and seats from which parents are visible, audible and able to be touched.

Robertson (2012) Recommendation

A designated children's space shall be provided in prison waiting and visiting

rooms (with a bottle warmer, a changing table, toys, books, drawing materials, games, etc.) where children can feel safe, welcome and respected. Prison visits shall provide an environment conducive to play and interaction with the parent.

Consideration should also be given to permitting visits to take place in the vicinity of the detention facility, with a view to promoting, maintaining and developing child-parent relationships in as normal a setting as possible.

Council of Europe (2018) Recommendation 20

2.1.11 | Child friendly visits

The Scottish Prison Service should ensure that all prisons offer a range of 'bonding' and other child-focused visits and that these are open to the full range of prisoners who are parents; there should be clear criteria underpinned by the rights of children for these that are applied consistently throughout the estate.

SCCYP (2011) Follow-up recommendation 15

Minimum European standards should be adopted for visiting facilities in prisons to create child-friendly spaces which encourage personal contact and provide an environment conducive to play and positive relations between parents and their children. Such facilities should be accessible to children with disabilities or other access needs.

Scharff Smith and Gampell (2011) Recommendation

Both the physical prison environment and staff behaviour towards children should be child-friendly and supportive. Guidance should be prepared on how to achieve

this, with training and financial support provided to implement necessary changes.

Robertson (2012) Recommendation

Contact visits should be the norm for children visiting parents in prisons. Longer, private and/or child-friendly visits should be available whenever possible.

Robertson (2012) Recommendation

Arrangements should be made in prisons for parent-child activities on a regular basis. Opportunities should also be created for children to visit their parent in private in special circumstances.

Scharff Smith and Gampell (2011) Recommendation

Child-parent activities should include extended prison visits for special occasions (Mother's Day, Father's Day, end of year holidays, etc.) and other visits to further the child-parent relationship, in addition to regular visits. Consideration on such occasions should be given to prison and other staff in visiting areas being dressed less formally, in an effort to normalise the atmosphere.

Council of Europe (2018) Recommendation 28

Scotland must reduce the worry for children of imprisoned parents so that the experience of prison visiting is as positive and non-stigmatising as possible.

The Promise (2020)

2.1.12 Family and Child friendly environment

Any restrictions placed on the conditions under which prisoners may meet with their families or friends take account of the

importance placed on the maintenance of good family and social relationships throughout their sentence.

HMIPS, Inspection and Monitoring Standard 6.12

2.1.13 Flexible visiting hours

Visit times arranged by the Scottish Prison Service should take account of school hours and public transport issues in order to avoid disruption to schooling, ease the stress of visits and increase uptake.

Marshall (2008) Recommendation 15

2.1.14 Practical support for visiting prisoners

As recommended by Families Outside, local and national transport strategies should include arrangements for transport to prisons. Prisons should be required to produce travel plans in conjunction with local providers.

Marshall (2008) Recommendation 14

The Scottish Prison Service should consider good practice examples in the prison estate in respect of transport for families visiting prisons, and work with community partners to ensure that such good practice replicated at other prisons.

SCCYP (2011) Follow-up recommendation 19

Children unable to visit their parent on grounds of distance should be supported financially in visiting, particularly to prisons that are difficult to reach.

Robertson (2012) Recommendation

Financial support should be available to families on low income to ensure visits are not impossible due to lack of funds. Where possible, families travelling long distance to prison should be accommodated overnight close to the prison facility.

Scharff Smith and Gampell (2011) Recommendation

Visits shall be organised so as not to be interfere with other elements of the child's life, such as school attendance. If weekly visits are not feasible, proportionately longer, less frequent visits allowing for greater child-parent interaction should be facilitated.

Council of Europe (2018) Recommendation 18

GOOD PRACTICE and KEY RESOURCES

'Help With Prison Visits' claims

The UK Government's 'Help with Prison Visits' scheme helps with the cost of visiting a family member in prison for people on a low income.

<https://www.gov.uk/help-with-prison-visits>

Sacro Travel Service

Sacro provide travel and transport to families visiting Scottish Prisons. Families must live in Glasgow or Edinburgh in the Lothians.

<http://www.sacro.org.uk/services/criminal-justice/travel-service>

2.1.15 | Reuniting families

In order to promote healthy child development and to help former prisoners reintegrate with their children and families, support and care shall be provided by prison, probation or other agencies specialising in assisting prisoners, as appropriate. Prison authorities, in co-

operation with probation and/or social welfare services, local community groups and civil society organisations, shall design and implement pre- and post-release reintegration programmes which take into account the specific needs of prisoners resuming their parental role in the community.

Council of Europe (2018) Recommendation 44

2.1.16 | Home leave

Prison regimes should be designed in a way that progressively allows imprisoned parents to take parental responsibility, in particular as part of preparation for release (for example, by creating opportunities for imprisoned parents through home leaves).

Scharff Smith and Gampell (2011) Recommendation

2.1.17 | Preparing for release

Children should be supported and prepared for the release and return of an incarcerated parent before the date of release, in particular by parents and carers. Guidance should be prepared to address the needs of children at these times.

Robertson (2012) Recommendation

2.2

Indirect contact

Positive family relationships are encouraged through various mediums of communication

2.2.1 | Practical support for indirect contact

In accordance with national law and practice, the use of information and communication technology (video-conferencing, mobile and other telephone systems, internet, including webcam and chat functions, etc.) shall be facilitated between face-to-face visits and should not involve excessive costs. Imprisoned parents shall be assisted with the costs of communicating with their children if their means do not allow it. These means of communication should never be seen as an alternative which replaces face-to-face contact between children and their imprisoned parents.

Council of Europe (2018) Recommendation 25

Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals: a) by corresponding in writing and using, where available, telecommunication electronic, digital and other means.

UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) 2015, Rule 58

GOOD PRACTICE and KEY RESOURCES

Virtual Visits

All Scottish prisons now operate video 'virtual' visits. These visits do not count against a person's entitlement to in-person visits, and families are not charged to access these. If needed, a number of prison visitor centres can support families to access virtual visits.

Email a prisoner scheme

The 'email a prisoner' scheme facilitates contact across the prison estate by allowing

family and friends to send emails to prisoners. These are printed inside the prison and included in the daily mail delivery.

Electronic Payments

All prisons in Scotland now accept electronic payments into personal prison accounts.

2.2.2 – 2.2.3 | If physical contact not possible

In accordance with national law and practice, the use of information and communication technology (video-conferencing, mobile and other telephone systems, internet, including webcam and chat functions, etc.) shall be facilitated between face-to-face visits and should not involve excessive costs. Imprisoned parents shall be assisted with the costs of communicating with their children if their means do not allow it. These means of communication should never be seen as an alternative which replaces face-to-face contact between children and their imprisoned parents.

Council of Europe (2018) Recommendation 25

Indirect contact should supplement, not substitute, in-person visits.

Robertson (2012) Recommendation

Where it is not possible for families to use the normal arrangements for visits, the prison is proactive in taking alternative

steps to assist prisoners in sustaining family relationships.

HMIPS, Inspection and Monitoring Standard 6.11

2.2.4 | Support to read and write letters

GOOD PRACTICE and KEY RESOURCES

Storybooks Dads, Books for Bairns

A number of prisons in Scotland have taken on their own version of Storybooks Dads. Prisoners create bedtime story CDs, DVDs and other educational gifts for their children.

2.2.5 | Telephone access

Telephones should be available for prisoners and their families to maintain regular contact, with both children and parents able to make and receive telephone calls.

Robertson (2012) Recommendation

Rules for making and receiving telephone calls and other forms of communication with children shall be applied flexibly to maximise communication between imprisoned parents and their children.

When feasible, children should be authorised to initiate telephone communications with their imprisoned parents.

Council of Europe (2018) Recommendation 26

2.2.6 | Cost of telephone access

Call costs should preferably be free for those making or receiving them and in any case should not be prohibitive.

Robertson (2012) Recommendation

2.2.7 | Additional alternative contact

Specific guidelines should be developed in relation to supporting and maintaining contact for prisoners whose children live abroad. In particular, the use of internet technologies (including the use of web cameras and internet instant chat communication) should be encouraged in such circumstances.

Scharff Smith and Gampell (2011) Recommendation

For parents incarcerated abroad, arrangements should be made to enable children's continued contact with their parent, which should take into account time differences and costs of international correspondence.

Robertson (2012) Recommendation

Children unable to visit their parent on grounds of distance (whether in the same or different country to their incarcerated parent) should be supported in alternative ways of keeping contact, including additional or free telephone calls and letters.

Robertson (2012) Recommendation

In accordance with national law and practice, the use of information and communication technology (video-conferencing, mobile and other telephone systems, internet, including webcam and chat functions, etc.) shall be facilitated between face-to-face visits and should not involve excessive costs. Imprisoned parents shall be assisted with the costs of communicating with their children if their means do not allow it. These means of communication should never be seen as an alternative which replaces face-to-face

contact between children and their imprisoned parents.

Council of Europe (2018) Recommendation 25

2.2.8 | Schools encourage contact

3

Families are safe and well

3.1

Preventing harm

Agencies ensure their practices are not detrimental to the physical safety and emotional wellbeing of families

3.1.1 | Identification and support

The following information shall be entered in the prisoner file management system upon admission of every prisoner: ... (f) The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status.

UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) 2015, Rule 7

There should... be a more systematic approach to checking whether people being booked into custody have caring responsibilities by, for example, including a question on this during the booking in process.

HMICS (2019) Inspection of the strategic arrangements for the delivery of police custody, para. 173

The prison administration shall endeavour to collect and collate relevant information at entry regarding the children of those detained.

Council of Europe (2018) Recommendation 5

At admission, the prison administration should record the number of children a prisoner has, their ages, and their current primary caregiver, and shall endeavour to keep this information up-to-date.

Council of Europe (2018) Recommendation 13

A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

UNCRC Article 20.1

3.1.2 | Disclosure checks

3.1.3 | Emergency child protection orders

3.1.4 | Support for kinship care

If children are removed from the care of their parents, Scotland must not abandon those families. Families must continue to be provided with therapeutic support, advocacy and engagement in line with principles of intensive family support.

The Promise (2020)

3.1.5 and 3.1.6 | Family present at arrest

Arrest protocols should uphold the rights and dignity of the child, including ensuring the parent is not humiliated in front of the child.

Robertson (2012) Recommendation

An arrest that involves an unnecessary display of force may constitute a violation of the child's right to respect for private and family life and possibly his/her right to freedom from inhuman and degrading treatment. In circumstances where the use of force against the parent is less extreme than to constitute 'inhuman and degrading treatment' the parent should nevertheless not be humiliated in front of the child.

Mason-White and Kearney (2012), p. 20

Due consideration should be given by the police to the impact that arrest of a parent

may have on any children present. In such cases, where possible, arrest should be carried out in the absence of the child, or at a minimum, in a child sensitive manner.

Council of Europe (2018) Recommendation 8

3.1.6 | Dedicated staff for vulnerable family members

Do police consider and provide for children present? E.g. could one arresting officer be specially assigned to focus on the children, take them to another room, explain what is happening, etc.?

Mason-White and Kearney (2012) Issues to consider | Arrest

3.1.7 | Meeting the needs of vulnerable family members

Children should not be left alone following the arrest of a parent. They should be left in the care of an appropriate adult.

Robertson (2012) Recommendation

Arresting officers should ensure that children are taken care of properly and in particular that they are not left on their own following the arrest of a parent.

Scharff Smith and Gampell (2011) Recommendation

3.1.8 and 3.1.9 | Resolving urgent childcare needs

What provision is made for the child after their parent has been arrested and/or who is responsible for the child's wellbeing? This includes assessing the suitability of a temporary carer/guardian e.g. police background check, child welfare services background check and/or interview and a site inspection of their home.

Mason-White and Kearney (2012) Issues to consider | Arrest

When a sentence causes parents to be separated from children for whom they are caring, they should be given sufficient time to make arrangements for those children prior to the commencement of the sentence, taking into account the best interests of the child.

Robertson (2012) Recommendation

Immediately following arrest, arrested persons should be allowed and supported to make temporary childcare arrangements for children under their care.

Robertson (2012) Recommendation

Prior to, or on admission, individuals with caregiving responsibilities for children shall be enabled to make arrangements for those children, taking into account the best interests of the child.

Council of Europe (2018) Recommendation 12; also UN Bangkok Rules 2010, Rule 2.2

At admission, the prison administration should record the number of children a prisoner has, their ages, and their primary caregiver, and shall endeavour to keep this information up-to-date.

Council of Europe (2018) Recommendation 13

At admission, the following details should be recorded immediately concerning each prisoner: ... the number of children, their ages and their current primary caregiver.

Council of Europe (2020) Recommendation 15.1h

...The following information shall be entered in the prisoner file management

system upon admission of every prisoner:
... The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status...

UN Standard Minimum Rules for the Treatment of Prisoners 2015 (Nelson Mandela Rules), Rule 7f

Parents facing imprisonment must be supported to make plans for their children and everything must be done to avoid emergency removal and panicked response.

The Promise (2020)

3.1.10 and 3.1.11 | Search procedures

Search procedures should be appropriate and proportionate to children's rights, i.e. they should consider the child's right to privacy, their bodily integrity, safety and security, etc.

Scharff Smith and Gampell (2011) Recommendation

Any security checks on children shall be carried out in a child-friendly manner that respects children's dignity and right to privacy, as well as their right to physical and psychological integrity and safety. Any intrusive searches on children, including body cavity searches, shall be prohibited.

Council of Europe (2018) Recommendation 22

Any searches of prisoners prior to visits shall be conducted in a manner which respects their human dignity in order to enable them to interact positively with their children during visits. As far as possible, children shall be authorised to

leave the visiting area prior to the imprisoned parent, as this can be traumatic for some children. Where prisoners are provided with clothes by prison authorities, this clothing shall not offend their dignity, particularly during visits with their children.

Council of Europe (2018) Recommendation 24

1. Admission of visitors to the prison facility is contingent upon the visitor's consent to being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access.

2. Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.

UN Standard Minimum Rules for the Treatment of Prisoners 2015 (Nelson Mandela Rules), Rule 60

3.1.12 | Next of Kin

At admission, the prison administration should record the number of children a prisoner has, their ages, and their primary caregiver, and shall endeavour to keep this information up-to-date.

Council of Europe (2018) Recommendation 13

3.1.13 | Caring responsibilities and community-based sentences

Information provided to, and by, the media should not violate the right to privacy and protection of children and their families, including data protection rules, and any media

reporting should be carried out in a child-friendly manner.

Council of Europe (2018) Recommendation 55

The media, professionals and the general public should be provided with reliable and up-to-date data and good practice examples to increase their awareness regarding the numbers of children affected and the impact of parental imprisonment, and to avoid negative stereotyping and stigmatisation of children with imprisoned parents.

Council of Europe (2018) Recommendation 56

Do non-custodial measures take account of the caring responsibilities of the parent and the best interests of the children? E.g. does home curfew take account of any need to take children to or collect them from school? Are any infringements of non-custodial conditions checked to ensure that they were not influenced by legitimate child rights considerations? E.g. the need to take a child to a doctor conflicting with reporting to a probation officer? Do the reporting requirements uphold the dignity of the child and their parent, and respect their right to privacy? E.g. where must the parent report? At what time of day?

Mason-White and Kearney (2012) Issues to consider |
Non-custodial measures

It should be clearly stated that child care responsibilities should not be a barrier to a person undertaking community service as an alternative to prison. Where appropriate, Child care should be provided to allow a community service order to be carried out. Community service opportunities should be audited to assess their suitability for women offenders.

Marshall (2008) Recommendation 10

a) The forthcoming regulations under s.227F of the 1995 Act should put beyond doubt that local Authorities must provide for expenses covering adequate childcare responsibilities to carry out the requirements attached to a Community Payback Order. B) The relevant sections of the practice guidance for Community Payback Orders should be amended so as to be clear about what Local Authorities must provide to ensure that childcare responsibilities are not a barrier to a community sentence being imposed.

SCCYP (2011) Follow-up recommendation 7

3.2

Supporting wellbeing and positive outcomes

Agencies offer services to support emotional wellbeing and positive life outcomes for families affected by the Criminal Justice System

3.2.1 | Emotional and psychological support

GOOD PRACTICE and KEY RESOURCES**In Tune**

In 2014, Vox Luminis and Families Outside supported three workshops as part of the 'In Tune' Project. Run by professional musicians, these interactive music workshops brought families affected by imprisonment together and saw very positive results: 71% of children demonstrated evidence that their family relationships had improved.

For current information, see:

<http://www.voxluminis.co.uk/>

Parenting and other programmes that encourage the development of constructive parent-child relationships and in other ways support positive experiences for children should be offered in prisons.

Scharff Smith and Gampell (2011) Recommendation

[The SPS will] Work with partners to provide services and interventions which support families such as parenting, mediation, etc.

Scottish Prison Service Family Strategy 2017-2022

3.2.2 | GIRFEC used to support wellbeing

Our staff will acknowledge the diverse needs of individuals and consider the SHANARRI indicators in all interactions with those in our care, their families and wider social networks. GIRFEC promotes joined up working and information sharing for practitioners; it means working across organisation boundaries and putting children and their families at the heart of decision making.

Scottish Prison Service Family Strategy 2017-2022

Arrangements should be made to facilitate an imprisoned parent, who wishes to do so, to participate effectively in the parenting of their child, including communicating with school, health and welfare services and taking decisions in this respect, except in cases where it is not in the child's best interests.

Council of Europe (2018) Recommendation 27

3.2.3 | School policies and practices

3.2.4 | Parenting and family learning

Parenting classes should be designed specifically for parents involved with the criminal justice system and made widely available. Other ways of strengthening the parenting role of incarcerated parents should also be supported.

Robertson (2012) Recommendation

Dedicated programmes should be designed to address the root causes of offending and enhance the social reintegration prospects of prisoners upon release in accordance with their individual treatment needs. Such needs may include education; vocational training and work experience; counselling; physical and mental health care, including psychological support; treatment for substance use

disorders, cognitive-behavioural therapy, life skills training and family-oriented programming for incarcerated parents.

United Nations System Common Position on Incarceration (April 2021)

GOOD PRACTICE and KEY RESOURCES

National Parenting Strategy

The Scottish Prison Service has developed a National Parenting Strategy Outcomes Policy. Each prison is tasked with creating local action plans to meet the outcomes.

For further information, see:

<http://www.sps.gov.uk/Families/FrequentlyAskedQuestions/Families-Policies.aspx>

HMP Low Moss Homework Club

HMP Low Moss runs a weekly homework club where children and their dads work on homework with the support of a volunteer teacher.

3.2.5 | Access to the same learning for all family members

3.2.6 | Support following the witnessing of an arrest

In their study of children involved in the United States Child Welfare System, Phillips and Zhao found that witnessing the arrest of a household member, either alone or in conjunction with the recent arrest of a parent, is predictive of elevated post-traumatic stress symptoms.

Phillips and Zhao (2010)

How are the child's emotional and developmental responses to the event provided for? Is the child offered immediate crisis counselling and follow-up mental health services?

Mason-White and Kearney (2012) Issues to consider | After the arrest

3.2.7 | Preparation for custody

Prior to, or on admission, individuals with caregiving responsibilities for children shall be enabled to make arrangements for those children, taking into account the best interests of the child.

Council of Europe (2018) Recommendation 12; also UN Bangkok Rules 2010, Rule 2.2

3.2.8 and 3.2.9 | Caring responsibilities identified

Scotland must do all it can to prevent the imprisonment (either on remand or as part of a sentence) of those with parenting responsibility.

The Promise (2020)

At admission, the prison administration should record the number of children a prisoner has, their ages, and their primary caregiver, and shall endeavour to keep this information up-to-date.

Council of Europe (2018) Recommendation 13

At admission, the following details should be recorded immediately concerning each prisoner: ... the number of children, their ages and their current primary caregiver.

Council of Europe (2020) Recommendation 15.1h

...The following information shall be entered in the prisoner file management system upon admission of every prisoner: ... The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status...

UN Standard Minimum Rules for the Treatment of Prisoners 2015 (Nelson Mandela Rules), Rule 7f

3.2.10 | Support for emotional and physical reactions

[The SPS will] Work with partners to support families to access services that improve safety and wellbeing.

Scottish Prison Service Family Strategy 2017-2022

3.2.11 | Additional support during visits

3.2.12 | Prisoners are informed of family wellbeing

How is the parent kept informed about the situation and wellbeing of the children?

Mason-White and Kearney (2012) Issues to consider | Pre-trial detention

Incarcerated parents should be given information about and enabled to participate in resolving any difficulties relating to their children, provided this is in the best interests of the child.

Robertson (2012) Recommendation

[The SPS will] Have clear protocols in place for how people in our care and their families can be kept informed about the well-being of their family members.

Scottish Prison Service Family Strategy 2017-2022

3.2.13 | Support for imprisoned parents

[The SPS will] Support people in our care to participate in their child's education.

SPS Family Strategy 2017-2022

Arrangements should be made to facilitate an imprisoned parent, who wishes to do so, to participate effectively in the parenting of their children, including communicating with school,

health and welfare services and taking decisions in this respect, except in cases where it is not in the child's best interests.

Council of Europe (2018) Recommendation 27

Child-parent activities should include extended prison visits for special occasions (Mother's Day, Father's Day, end of year holidays, etc.) and other visits to further the child-parent relationship, in addition to regular visits. Consideration on such occasions should be given to prison and other staff in visiting areas being dressed less formally, in an effort to normalise the atmosphere.

Council of Europe (2018) Recommendation 28

Special measures shall be taken to encourage and enable imprisoned parents to maintain regular and meaningful contact and relations with their children, thus safeguarding their development. Restrictions imposed on contact between prisoners and their children shall be implemented only exceptionally, for the shortest period possible, in order to alleviate the negative impact the restriction might have on children and to protect their right to an emotional and continuing bond with their imprisoned parent.

Council of Europe (2018) Recommendation 30

3.2.14 | Community integration plans recognise family issues

[The SPS will] Ensure case management processes take account of family wellbeing.

SPS Family Strategy 2017-2022

3.2.15 | Programmes in preparation for release

In order to promote healthy child development and to help former prisoners reintegrate with their children and families, support and care shall be provided by prison, probation or other agencies specialising in assisting prisoners, as appropriate. Prison authorities, in co-operation with probation and/or social welfare services, local community groups and civil society organisations, shall design and implement pre-

and post-release reintegration programmes which take into account the specific needs of prisoners resuming their parental role in the community.

Council of Europe (2018) Recommendation 44

4

Informed practice

4.1

Training and accreditation

Staff have received appropriate training and qualifications

4.1.1 | All staff are trained

A confident and competent workforce across all services for children, young people and their families

GIRFEC (2012) Core component

Those involved in delivering the National Strategy for the Management of Offenders should receive training on the needs and rights of the children of offenders.

Marshall (2008) Recommendation 24

Criminal justice, social work and other professionals that may come into contact with children of incarcerated parents should be trained in the rights and needs of such children.

Robertson (2012) Recommendation

Guidance should be prepared and training provided so that teachers and other adults in schools are aware of the particular needs of children of incarcerated parents and can appropriately support such children in their performance, attendance and behaviour.

Robertson (2012) Recommendation

Staff who come into contact with children and their imprisoned parents shall receive training in areas including

how to respect children's needs and rights, the impact of imprisonment and the prison setting on children and the parental role, how to support imprisoned parents and their children and better understand the specific problems they face, how to make visits child-friendly and to search children in a child-friendly manner.

Council of Europe (2018) Recommendation 47

4.1.2 – 4.1.3 | Training content

The principle that visits need to be seen as a child's right and must not be used as a disciplinary measure or punishment should be...a regular feature of staff induction, training and appraisal.

SCCYP (2011) Follow-up recommendation 16

Security staff in prisons should be trained in child-appropriate searching and in the impact on children of parental imprisonment and the prison environment.

Scharff Smith and Gampell (2011) Recommendation

Staff who come into contact with children and their imprisoned parents shall receive training in areas including how to respect children's needs and rights, the impact of imprisonment and the prison setting on children and the parental role, how to support imprisoned parents and their children and better understand the specific problems they face,

how to make visits child-friendly and to search children in a child-friendly manner.

Council of Europe (2018) Recommendation 47

In order to ensure efficiency and quality of the support, protection and care provided to children and their imprisoned parents, staff training programmes shall be evidence-based, reflect current national law and practices and international and regional human rights law and standards relating to children, and shall be revised regularly.

Council of Europe (2018) Recommendation 48

GOOD PRACTICE and KEY RESOURCES

Families Outside Training

Families Outside offers accredited training to those individuals and groups across the statutory and voluntary sectors who come into contact with families affected by imprisonment.

The training is designed to raise awareness of the impact imprisonment has on families, improve practice and develop the knowledge and skills of participants required when supporting families affected by imprisonment.

For further information, see:

<http://www.familiesoutside.org.uk/training/>

<http://www.familiesoutside.org.uk/reversible-thinking-video/>

<http://www.familiesoutside.org.uk/27000-voices/>

Other Resources for Professionals

Barnardo's NICCO website (National Information Centre on Children of Offenders) is a one-stop information and advice service to support all professionals working with children and families of people with convictions, bringing together useful information in one place.

For further information, see:

www.nicco.org.uk

4.1.4 | Child protection training

[The SPS will] Ensure relevant staff are trained in child protection and wellbeing issues in line with National Child Guidance and Children and Young People (Scotland) Act 2014.

SPS Family Strategy 2017-2022

4.1.5 | Trainers are appropriately trained

4.2

Policy and practice guidance

Agency policies and practice guidance recognise and support the rights and needs of families

4.2.1 | Guidance recognises family rights

Law, policy and practice in relation to criminal justice and imprisonment should be amended to take account of the rights of children affected by the imprisonment of a parent or carer.

Marshall (2008) Recommendation 2

The relevant national authorities should adopt a multi-agency and cross-sectoral approach in order to effectively promote, support and protect the rights of children with imprisoned parents, including their best interests. This involves co-operation with probation services, local communities, schools, health and child welfare services, the police, the children's ombudsperson or other officials with responsibility for protecting children's rights, as well as other relevant agencies, including civil organisations offering support to children and their families.

Council of Europe (2018) Rec. 49

GOOD PRACTICE and KEY RESOURCES

Roughly aligned to the UNCRC, a 'Bill of Rights for Children of Incarcerated Parents' was developed by the San Francisco Children of Incarcerated Parents Partnership. They are the rights:

1. To be kept safe and informed at the time of my parent's arrest
2. To be heard when decisions are made about me;
3. To be considered when decisions are made about my parent;
4. To be well cared for in my parent's absence;
5. To speak with, see and touch my parent;
6. To support as I face my parent's incarceration;
7. Not to be judged, blamed, or labelled because my parent is incarcerated;
8. To a lifelong relationship with my parent.

For further information, see:

<http://www.sfcipp.org/images/brochure.pdf>

4.2.2 | Impact Assessments inform policy

Law, policy and practice affecting the children of offenders should be reviewed in light of their impact on the children of prisoners. Consideration should be given to using the SCCYP Children's Rights Impact Assessment as a tool to achieve that end.

Marshall (2008) Recommendation 28

The Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to decisions of a strategic nature relating to the rights and wellbeing of children as required by, and in accordance with, the arrangements set out in the [Children's rights] Scheme.

UNCRC (Incorporation)(Scotland) Act 2021, 14(3)

Any material change in the delivery of services will be impact-assessed in relation to children and families.

Scottish Prison Service Family Strategy 2017-2022

4.2.3 | GIRFEC informs policy

GIRFEC Principles and Values can be found at

<https://www.gov.scot/policies/girfec/principles-and-values/>

Our staff will acknowledge the diverse needs of individuals and consider the SHANARRI indicators in all interactions with those in our care, their families and wider social networks. GIRFEC promotes joined up working and information sharing for practitioners; it means working across organisation boundaries and putting children and their families at the heart of decision making.

Scottish Prison Service Family Strategy 2017-2022

4.2.4 | Families inform policy

Children (and families) of prisoners should...be able to participate in the development and delivery of all services, training materials and guidelines concerning them.

Robertson (2012) General principle

4.2.5 | Families are supported to share their views

Funding shall be made available to support research on children with imprisoned parents in order to contribute to policy development and to promote best practice in this area.

Council of Europe (2018) Recommendation 53

4.2.6 | Looked-after children

If children are removed from the care of their parents, Scotland must not abandon those families. Families must continue to be provided with therapeutic support, advocacy and engagement in line with principles of intensive family support

The Promise (2020)

4.2.7 | Child protection policy

4.2.8 | Monitoring and evaluation

The competent ministries, as well as children's ombudspersons or other national human rights bodies with responsibility for protecting children's rights, shall monitor, report regularly on and take any appropriate measures regarding the recognition and implementation of the rights and interests of children with imprisoned parents, including infant children living in prison with their parent.

Council of Europe (2018) Recommendation 50

The implementation of child-friendly practices and policies, including international standards relating to children with imprisoned parents, shall be regularly reviewed and evaluated. This review may involve the relevant ministries, the prison administration, social services, children's ombudspersons and other human rights bodies with responsibility for protecting children's rights, as well as other relevant agencies, including civil society organisations.

Council of Europe (2018) Recommendation 54

4.2.9 | Allocation of resources

The important role of non-governmental organisations in supporting prisoners and their families should be recognised and appropriate funding should be made available to them so that such assistance can be provided in accordance with need.

Scharff Smith and Gampell (2011) Recommendation

4.2.10 | Guidance for arrest procedures

Depending on the age or quality of the relationship with the parent, children may feel shock, fear, anxiety or anger towards the arresting officers. This may be particularly true for children and young people who witness aggression towards their parent, or if they are unaware their parents have been involved in criminal activity.

Police should receive guidance and training on dealing with children sensitively when a family member is being arrested or detained.

Marshall (2008) Recommendation 7

Protocols or other guidance should be developed on how arresting officials should respond to children at or affected by an arrest.

Robertson (2012) Recommendation

Specific guidelines should be developed for police officers on handling arrests in the presence of children, with the overall aim of minimising the traumatic consequences for children. All arresting

officers should be trained in accordance with the guidelines.

Scharff Smith and Gampell (2011) Recommendation

4.2.11 | Review of visiting procedures

The Scottish Prison Service should be encouraged to pursue its plan of undertaking visitors' surveys to assess satisfaction with arrangements that affect families.

Marshall (2008) Recommendation 19

Prisons should seek the opinions of children and others as to the quality of visits and other forms of contact, and their ideas for improvement.

Robertson (2012) Recommendation

Any new policies or measures designed by or for the prison administration which may impact child-parent contact and relations shall be developed with due regard to children's rights and needs.

Council of Europe (2018) Recommendation 45

4.3

Understanding need and impact

Agencies have procedures to identify the support needs of individual families and the potential impact of all decisions on family members

4.3.1 and 4.3.2 | Information about family is collected as soon as possible

The Scottish Government, the Scottish Prison Service, and others should work together to improve the collection of data about the number of children in Scotland affected by the imprisonment of a parent.

SCCYP (2011) Follow-up recommendation 3

Criminal justice agencies should develop data collection and monitoring systems aimed at protecting children's rights that capture the number of prisoners with children, the number of children each incarcerated parent has and other information necessary to plan policy and practice.

Robertson (2012) Recommendation

Police and prisons should be legally obliged to collect information about the number and age of children whose parents have been arrested and/or imprisoned.

Scharff Smith and Gampell (2011) Recommendation

The prison administration shall endeavour to collect and collate relevant information at entry regarding the children of those detained.

Council of Europe (2018) Recommendation 5

At admission, the prison administration should record the number of children a prisoner has, their ages, and their primary

caregiver, and shall endeavour to keep this information up-to-date.

Council of Europe (2018) Recommendation 13

At admission, the following details should be recorded immediately concerning each prisoner: ... the number of children, their ages and their current primary caregiver.

Council of Europe (2020) Recommendation 15.1h

...The following information shall be entered in the prisoner file management system upon admission of every prisoner: ... The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status...

UN Standard Minimum Rules for the Treatment of Prisoners 2015 (Nelson Mandela Rules), Rule 7f

4.3.3 | People held in prison encouraged to share information

Who checks to see whether children are affected – those with official and unofficial caring responsibilities, including the arresting officer? How is this done? How can it be ascertained that the arrestee is telling the truth and not hiding the existence of children (for example out of fear that they will lose custody of or access to the child)? What provision is made to address concerns that disclosing

the existence of children may lead to their being taken into state care with the likelihood of permanent separation?

Mason-White and Kearney (2012) Issues to consider |
Arrest

How is information on the parent's caring responsibilities acquired and verified?

Through interviews with the parent, social workers, schools? Perhaps a checklist is required?

Mason-White and Kearney (2012) Issues to consider |
Pre-trial decisions

4.3.4 and 4.3.5 | Families considered in all key decisions

Any new sentencing body or guidelines should acknowledge that the rights and interests of the children of offenders are a legitimate, necessary and important consideration.

Marshall (2008) Recommendation 8

Prior to sentencing, courts should identify whether those convicted have dependent children and take into consideration the impact of all potential sentences on children. The best interests of the child should be a primary consideration when choosing a sentence.

Robertson (2012) Recommendation

A landmark South African Judgement in *S v M* (2007) establishes that 'all South African courts [must] give specific consideration of the impact on the best interests of the child when sentencing a primary caregiver if the possible imprisonment will be detrimental to the child, then the scales must tip in favour of

a non-custodial sentence, unless the case [is] so serious that that would be entirely inappropriate.'

4.3.6 | Impact assessments are used

The rights and interests of the children of offenders should be taken into account when sentencing options are being considered and their impact on the sentence should be recorded. Consideration should be given to requiring a child impact assessment or, where a Social Enquiry Report is ordered, as an explicit component of that report. Good practice guidance should be issued on conducting a child impact assessment, backed up by training. This should acknowledge the need to avoid exposing children to pressure from the offender or family in the process of assessing the likely impact of the child.

Marshall (2008) Recommendation 11

Child impact assessments should be available whenever considering placing or releasing parents from custody, including decisions about pre-trial detention or early release, as well as when transferring prisoners between prisons.

Robertson (2012) Recommendation

Could the use of 'impact statements' be appropriate? In some countries the victim of a crime provides an impact statement for consideration by the judge. Perhaps the child could provide a similar impact statement when parents are sentenced? This could even be taken at the point of custody, rather than sentencing, so that it could encompass the impact of care arrangements.

Mason-White and Kearney (2012) Issues to consider |
Trial

4.3.7 | Arresting officers aware of dependants

Arresting officers should be under legal obligation to find out whether the arrested person has any children or if they have primary responsibility as carers for any children (in particular if children are not present during arrest).

Scharff Smith and Gampell (2011) Recommendation

of any affected children should be taken into consideration and alternatives to detention be used as far as possible and appropriate, especially in the case of a parent who is a primary caregiver.

Council of Europe (2018) Recommendation 2

Due consideration should be given by the police to the impact that arrest of a parent may have on any children present. In such cases, where possible, arrest should be carried out in the absence of the child or, at a minimum, in a child-sensitive manner.

Council of Europe (2018) Recommendation 8

4.3.8 and 4.3.9 | Sentencers aware of impact and needs on family

When considering potential sentences for a child's carer, sentences that are least damaging to the child should be considered first. These are likely to be non-custodial sentences. Guidance should be prepared on how different sentences affect children.

Robertson (2012) Recommendation

There should be a presumption against pre-trial detention and the best interests of the child should be a primary consideration when deciding on or reviewing pre-trial measures for a parent, in particular the decision to detain. Guidance should be prepared on what information is required for such decisions and on how to gather this information.

Robertson (2012) Recommendation

Where a custodial sentence is being contemplated, the rights and best interests

4.4

Information sharing

Protocols and organisational culture support the appropriate and timely sharing of information between agencies and with families

4.4.1 | Sharing information

The Data Protection Act 2018 promotes lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed.

As GIRFEC is about early intervention and prevention it is very likely that information may need to be shared before a situation reaches crisis. In the GIRFEC approach, a child's Named Person may have concerns about the child's wellbeing, or other individuals or agencies may have concerns that they wish to share with the Named Person. While it is important to protect the rights of individuals, it is equally important to ensure that children are protected from risk of harm. The Act requires that an individual's data be processed fairly and lawfully and that specific conditions / justifications for processing are met.

It is vital that data controllers put appropriate and relevant protocols in place and that they are conveyed to practitioners to provide them with a support mechanism for the decision-making process. It is also vital that a recording process is included in the protocol so that the decision – including the rationale behind making it – is formally recorded.

If there is any doubt about the wellbeing of the child and the decision to share, the Data Protection Act should not be viewed as a barrier to proportionate sharing.

ICO Brief (2013)

4.4.2 | Referral to other agencies

4.4.3 | Right to privacy

The collection and sharing of information on the children of offenders inevitably raises other human rights issues. The child or the parent may not wish to reveal or share the information with other agencies and doing so against their will could violate the right to private and family life. The child and or parent may be concerned about stigmatisation and discrimination or the fear that sharing information could lead to the parent losing custody of or access to the child. There are also cases where the child's right to information may conflict with the parent's right to privacy, such as where the arrested or detained person does not want their family to be informed of their whereabouts.

Mason-White and Kearney (2012) p16

Is the child's right to privacy respected by all those working with him or her? Is the parent's right to privacy respected? Are the different actors working with and around the affected children aware of and

sensitive to the child's needs, including their right to privacy?

Mason-White and Kearney (2012) Issues to consider

4.4.4 | Permission not required

Where circumstances exist such that consent may not be appropriate, for example where an assessment under the SHANARRI principles raises concerns, the Data Protection Act provides conditions to allow sharing of this information, such as 'for the exercise of any other functions of a public nature exercised in the public interest by any person' or 'in the legitimate interests of the data controller or the third party to whom the data are disclosed so long as it is not prejudicial to the child', and procedures should be clear about those circumstances which may necessitate processing without consent.

ICO Brief (2013)

4.4.5 | Informed decision

The Data Protection Act provides several conditions/justifications for processing, only the first of which rely on consent and, where required, it should be fully informed and freely given. However, the issue of obtaining consent can be difficult and it should only be sought when the individual has real choice over the matter.

ICO Brief (2013)

4.4.6 | Lead professional

Who is responsible for informing the children (if not present at the arrest)? Who is responsible for keeping the child/carer (individual, agency or institution) informed about what is happening to the parent after the arrest? Is the arrestee permitted and enabled to do this, if appropriate and if they wish to do so?

Mason-White and Kearney (2012) Issues to consider |
Arrest

A named person for every child and young person, and a Lead Professional (where necessary) to coordinate and monitor multi-agency activity

GIRFEC (2012) Core component 7

4.4.7 | Local partnerships

Local authorities should assess the adequacy of joint working and the 'flow' of information relating to the children of prisoners between children's and criminal justice services with a view to improving cooperation between agencies and appropriate information sharing that underpins better support for the children of prisoners.

SCCYP (2011) Follow-up recommendation 10

Agencies and services should coordinate to ensure the best interests of the child are met. Information about children should only be used or shared when in the best interests of the child.

Robertson (2012) Recommendation

Children, young people and their families will have experienced a more streamlined and coordinated response from practitioners.

GIRFEC (2012)

Consistent high standards of cooperation, joint working and communication where more than one agency needs to be involved, locally and across Scotland.

GIRFEC (2012) Core component 6

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Appendix 1: Key Issues Papers *(in development)*

- Child and Family Impact Assessments
- Consultation response: Special Rapporteur to the UN Human Right Committee regarding Children's Right to Privacy