



lawyers for
children & young people

ANNUAL REPORT

DECEMBER 2016 – NOVEMBER 2017

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INTRODUCTION

Welcome to Clan Childlaw's Annual Report for the period 1 December 2016 to 30 November 2017. This is the final report we will be producing for this December to November timeframe.

In 2017 we made a couple of big changes: the company Clan Childlaw Ltd came into existence on 7 December 2008 and, because of this, we have had a financial year end of 30 November. This has been problematic because most organisations and grants run from 1 April. We set up a new financial and accounting system this year and decided that when we did that we would change our financial year. From April 2017 our financial year now starts on 1st April.

We have also decided to change the beginning of the year for the purpose of monitoring and evaluating our outcomes and impact. In the autumn of 2017 we carried out a complete review of the ways we evaluate our services and show our impact, including the ways we ask children and young people to tell us about their experience with our representation services. We now have a Target Monitoring Framework and new systems for evaluation which include more accessible and 'child-friendly' online forms for clients which can be accessed via a tablet we make available (thanks to a grant from The Access to Justice Foundation) and six monthly e-surveys to all relevant professionals who used our Legal Information Service or made a referral to our Legal Outreach Service in the preceding six months. This was a big change and it will take a bit of time to establish the new systems and processes we need. December 2017 to March 2018 is a trial and testing period for the new systems and processes.

We also launched a new website in 2017 – it went live at the end of the year – the analytics on the new website will enable us to monitor and report on our impact in much more detail than we have been able to before. Future annual reports will provide the data and impact evaluation from the new systems and analytics from the new website.

Later in 2018 we will produce a short-term report covering the period 1 December 2017 to 31 March 2018. Future reports will cover the period from April to March and will be produced annually.

WHAT DO WE STAND FOR?

We believe that every child and young person should have the opportunity to express their views freely in all matters affecting them and that their views should be listened to and taken account of. We believe that every child and young person should have the opportunity to be heard and represented in any judicial and administrative proceedings affecting them. We believe that children and young people who need legal advice and legal representation should be able to have their own lawyer.

We believe that children and young people and those who work with them should know their rights and should be able to access information and guidance about their rights and how to exercise them, and about how the law affects them.

We believe that the law should protect and strengthen the rights of children and young people under the UNCRC.

ARTICLE 12 UNCRC

1. 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.
2. 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.

WHAT DO WE DO?

We improve children and young people's life chances by using our legal skills and expert knowledge to help young people take part in decisions that affect them and by making sure that children's rights are realised in Scots Law.

We do this through our work in three main areas: –

REPRESENTATION, LEARNING AND DEVELOPMENT, AND POLICY.

REPRESENTATION

LEGAL OUTREACH SERVICE

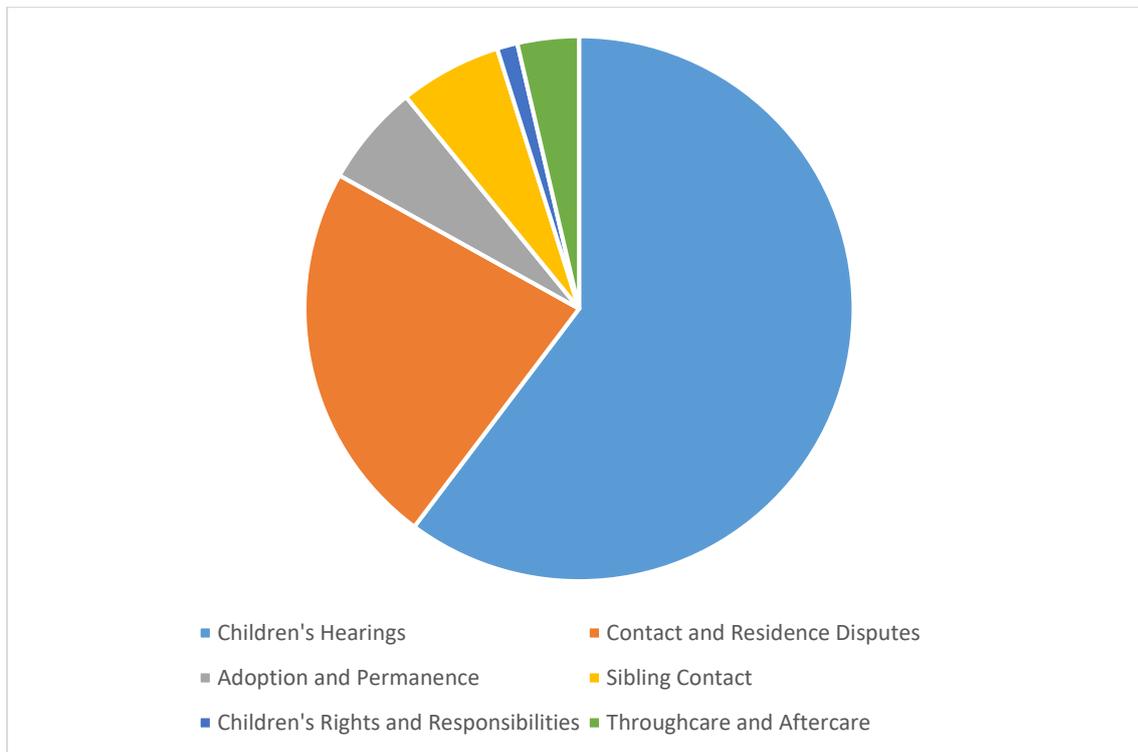
Clan Childlaw Limited offers a unique legal outreach service to children and young people who live in Edinburgh and the Lothians and Glasgow and the surrounding area.

The child or young person will always meet with a specialist solicitor, experienced in working with children and young people. We meet with them at a time and place suitable for them and in an environment of their choosing. We will provide advice even where legal aid funding is not available. We meet with children and young people as often as they need and give them as much time as they need to talk through their problems. We aim to build a relationship and build trust with the young person. Providing outreach services and working in a child centred way gives children and young people the best chance of accessing and engaging to get legal advice and representation. Our unique service fills the gap in dedicated legal services to support children & young people, and gives practical effect to Article 12 of the United Nations Convention on the Rights of the Child, enabling children to participate in decision-making processes which affect them and allowing their voices to be heard.

In 2016-2017, our representation service worked on 237 cases for children and young people. No complaints were received.

WHAT LEGAL ISSUES DO CHILDREN AND YOUNG PEOPLE NEED OUR HELP WITH?

We provide advice, help and representation in relation to all aspects of law affecting children and young people. In 2016-2017, 50% of the cases we worked on involved representation at children's hearings. 19% involved contact and residence disputes and 5% involved adoption and permanence. We also worked on cases involving sibling contact, children's rights and Throughcare and Aftercare.



LEGAL INFORMATION SERVICE

Young people, and those who care for and support them, often do not realise that their issue is a legal one or that there may be a legal solution. They may not know how to go about getting legal advice. Our free, accessible Legal Information Service gives young people and those assisting them information about their rights, about legal issues affecting them and about the law in relation to their situation. We also provide general information on child law and children's rights to professionals who work with children and young people. The service is free and can be accessed through freephone, by email and via our website. In 2016-2017 we answered 403 enquiries.

WHAT DO CHILDREN AND YOUNG PEOPLE CONTACT US ABOUT?

In 2016-2017 of the enquiries we answered:

- 26% were asking about contact and residence disputes.
- 14% were asking about children's hearings.
- 5% were questions about children's rights and responsibilities.
- 7% related to welfare, housing and money.
- 7% were questions about adoption and permanence.
- 4% were asking about child protection
- 5% were asking about sibling contact.

We are asked about a wide variety of other issues and we answered questions about: Throughcare and Aftercare, Kinship Care, Passports and Immigration, Confidentiality and Access to Records, Disability and Health, Parental Rights and Responsibilities, Employment Law, Education, Criminal Proceedings, Foster Care, as well as questions relating being a Young Parent.

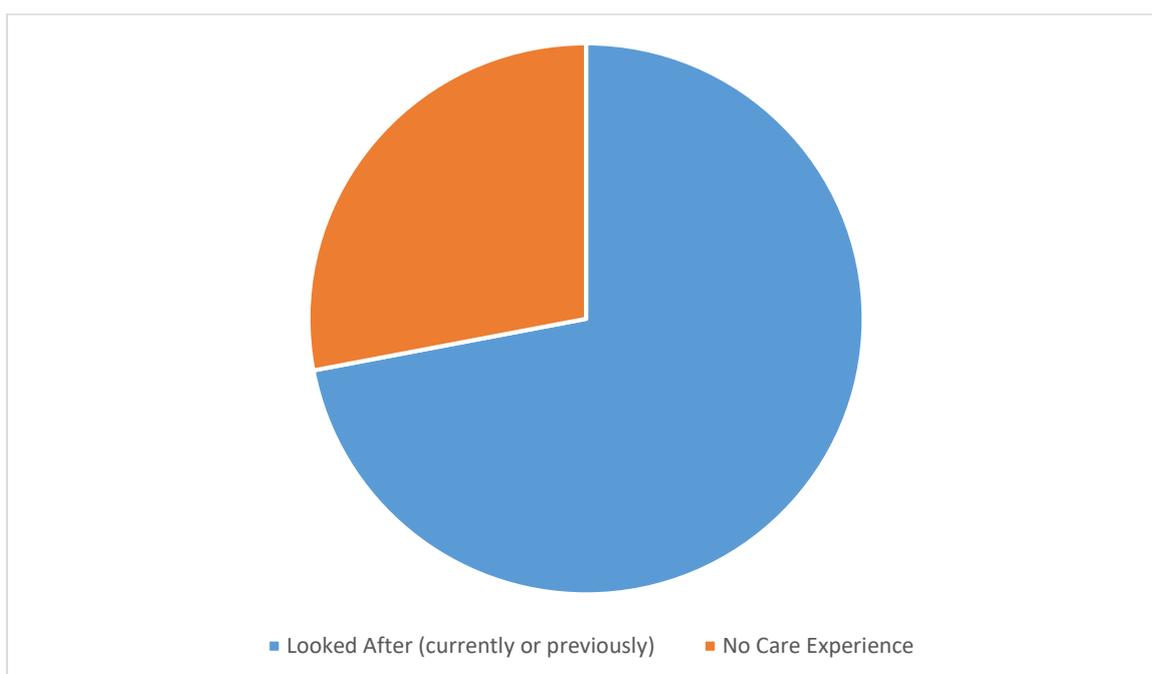
Where a legal issue requires a specialist in another area of law for example criminal law, immigration or asylum we assisted the child or young person with making contact with the appropriate specialist legal services.

HOW DO CHILDREN & YOUNG PEOPLE FIND OUT ABOUT US?

Our clients hear about our work through a variety of sources, including Children’s Rights Officers, family members, the Law Society of Scotland, Social Workers and Young People’s Centres. Some of the young people who contacted us did so because they heard about us from another of our clients, and a lot contact us because they have previously used our services.

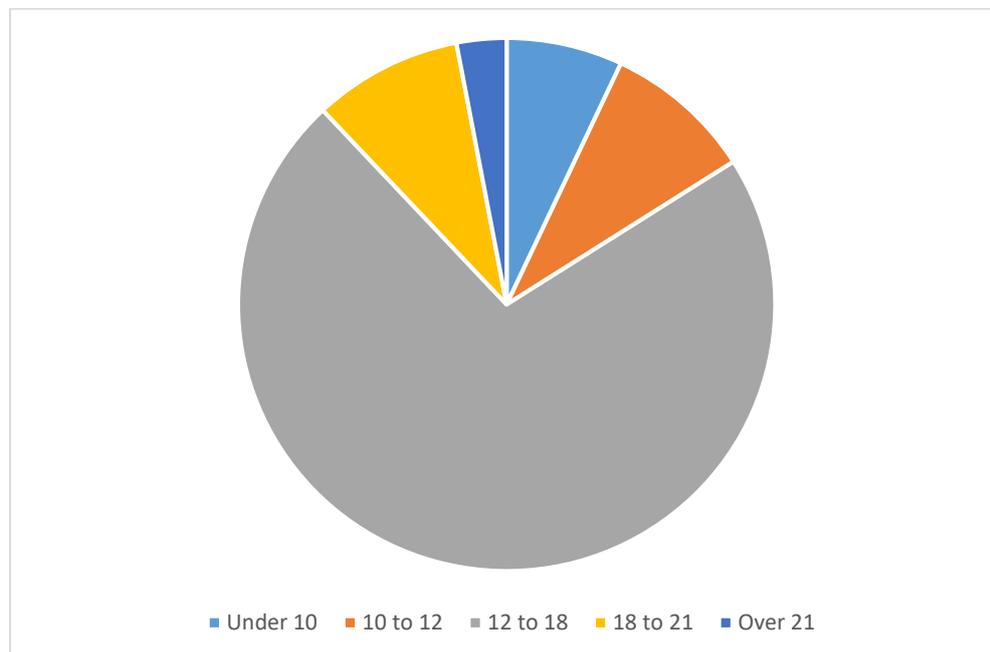
More specifically, we have received referrals from other charities and organisations, including Who Cares? Scotland, Barnardos, Citizens Advice Bureau, 6VT Café, Partners in Advocacy, Your Voice, The Rock Trust and Scottish Women’s Aid. We also receive referrals from other solicitors.

HAVE WE HELPED YOUNG PEOPLE WHO HAVE CARE EXPERIENCE?



72% of the children and young people we represented during 2016-2017 were looked after at the time, or had been at some point in the past.

HOW OLD ARE THE CHILDREN & YOUNG PEOPLE WHO USED OUR SERVICE?



As in previous years, most of the children and young people who used our services in 2016-2017 were between 12 and 18.

Outwith this core age range, we provided direct representation to 21 children aged 9-11, and to 27 young people with previous care experience, aged 18-22. Our safeguarder, curator and child welfare report work also involved children younger than our core client base with the children involved aged between 0-14 with an average age of 6. Our enquiry service received queries in relation to children and young people from 0-24.

WITH WHICH GENDERS DO THE CHILDREN AND YOUNG PEOPLE WHO USE OUR SERVICE IDENTIFY?

Of the children and young people we represented during 2016-2017, approximately 67% identified as female and 33% as male.

WHERE ARE OUR CLIENTS FROM?



The majority of our clients come from Edinburgh and the Lothians, and are represented through our Edinburgh office, now in its tenth year.

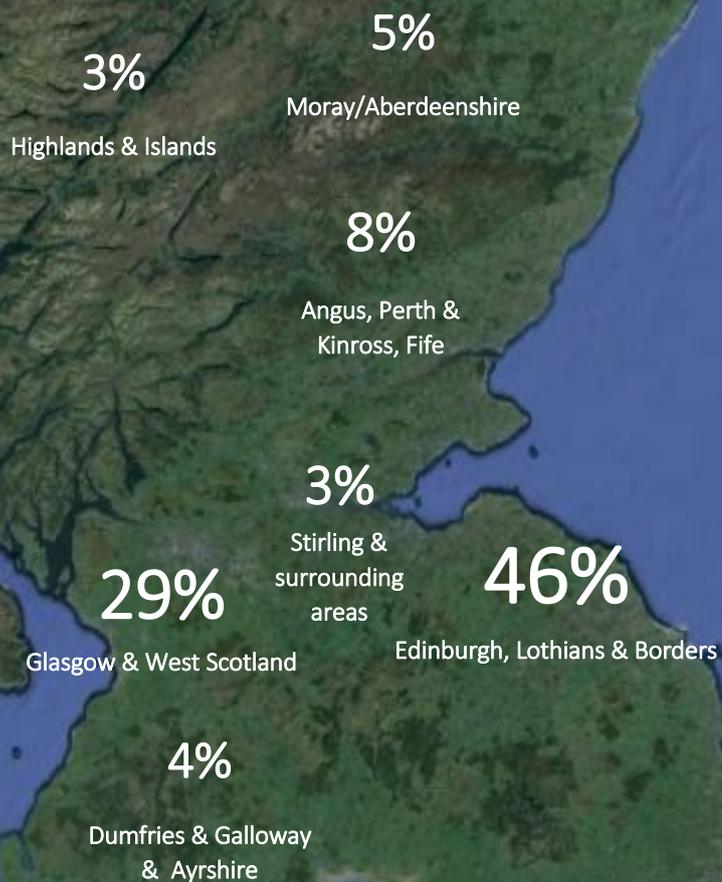
Our Glasgow office, now in its fifth year, has continued to expand over the past year, and has seen its client base increase steadily. In 2016-2017, the Glasgow office dealt with 34% of our clients.

WHERE ARE OUR ENQUIRIES FROM?

As in previous years, the majority of our enquiries came from the areas around our offices, with 180 from Edinburgh and the Lothians, and 112 from Glasgow and the surrounding area.

We also continue to receive enquiries from across Scotland.

Beyond Scotland, we have had enquiries from various areas in England.



WHAT DO OUR CLIENTS SAY ABOUT US?

We ask our clients for feedback after their first appointment with us. The questions we ask have been specifically designed to allow us to evaluate our service against SHANARRI, the Scottish Government's Getting It Right For Every Child Well-Being Indicators.

We provide practical, non-judgemental advice and support to children and young people, acknowledging that they are the experts about their own experience and listening to this before offering legal advice. This advice enables them to make fully informed decisions, which has in turn allowed them to build resilience and gain confidence in making decisions about their own lives. Having the experience of taking action for themselves and having their own solicitor allows them to develop their decision-making skills, and they have a greater awareness about their rights, which they can go on to use in the future.

86% of our clients said that having their own lawyer made them feel more confident about asking for help, expressing their views, and taking part in decision-making.

In her own words, our client said she is "happy that the higher court has listened to my views" and was enabled and supported to take legal action in her own right on an issue of huge importance to her. (client aged 14)

83% of our clients said that speaking to their lawyer helped them to understand more clearly what was happening to them, as well as the choices that they had.

"You work differently to other solicitors. You care about the client and their needs, and you communicate in a way that they can understand. Your project is a huge help, we are so grateful for it." (support worker for client)

75% of our clients felt less worried about their problems after speaking to their lawyer about it, and being told what they can do to resolve things and what their legal rights are.

"If Street Legal hadn't helped me, I would have been on the streets. You made all the difference to my life. I am so glad you have helped me." (client aged 19)

88% of our clients who used our child-centred outreach service said this enabled them to get legal advice and representation

"Now we understand how the law can help"

Workers that we have provided second tier advice, information and training to comment on the benefit of increased knowledge regarding the legal remedies available to the young people they are working with, as well as appreciating the difference that our client-centered approach makes in dealing with vulnerable young people.

At the end of 2017 we began using new systems for evaluation which has been designed to allow children and young people to tell us in their own words what impact our services have on their lives, and to follow up with their key workers about what difference getting help and advice has made as they move on from using our service. We will be able to report on these things in future annual reports.

CASE STUDIES

CHILDREN'S HEARINGS & RELEVANT PERSON

In 2017 we helped a young person to take a case to the Inner House of the Court of Session. We advised and represented a 14-year-old girl who wanted to get the Children's Hearing System to stop her grandparents from being involved in her Children's Hearings. She had made the decision to not see her grandparents and had had no contact with them for several years, they had no involvement in her upbringing. Despite this, because they had Relevant Person status the grandparents were provided with sensitive personal information and had the right to attend and participate in her Children's Hearings.

Our client was successful in her request to the Children's Panel to remove their relevant person status but her grandparents appealed the Pre-Hearing Panel decision. The Sheriff decided that our client's preference not to have her grandparents involved in her life was not relevant and overturned the decision, which meant her grandparents would continue to be involved in her Children's Hearings. We then represented our client so she could appeal the decision of the Sheriff. In this type of case this has to be done by going to Scotland's highest court. Our client was only able to take this step because she had her own lawyer to represent her.

The higher court decided that the Sheriff's was wrong to say that our client's grandparents were relevant persons. The judges said that the Sheriff was wrong

to think that the child's preference that her grandparents should play no part of her life was not relevant. The judges also said that for people to take part in a Child's Hearing as a relevant person they must continue to have (or recently have had) a significant involvement in the child's life. That is, not only did this court decision make things better for our client and make sure her view was listened to but it also made it clear how judges and Children's Panels should look at cases like this in future, for other children and young people in this situation. This case will mean that in future the views of other children and young people who say that they do not want people who do not have a significant involvement in their life to be involved in their Children's Hearings will have to be listened to. In her own words, our client said she is "happy that the higher court has listened to my views" and that Clan Childlaw were there to enable and support her to take legal action in her own right on an issue of huge importance to her.

CONTACT

Claire has just turned 15 and is on a Compulsory Supervision Order. She stays with her foster carers, Michael and Jenny. She has supervised contact with her dad once a week. Claire is currently studying for her exams and really wants to get good results. She would like to go to university or college to study business. She got in touch with Clan Childlaw to represent her at her next hearing. She finds it difficult to speak to the panel and would like Clan to provide her views to the panel. She would like to ask the panel to reduce contact with her dad. She enjoys seeing him, but she is finding it stressful to go to contact and study for her exams. She would like to decide when she has contact.

After meeting with Claire at school, a solicitor from Clan represented Claire at her hearing. The solicitor was able to explain to the panel why having a more flexible contact arrangement would be beneficial to Claire. The panel agreed that allowing Claire to decide when to have contact would help her to focus and alleviate some of her stress.

STREET LEGAL PROJECT

Throughout 2016-17 we delivered Street Legal - our Big Lottery funded partnership project with Street Work which provides legal outreach services to young people who are experiencing or at risk of homelessness in Edinburgh.

Over the first year of the project we have developed innovative models and approaches to make sure that young people can get the legal help they need.

We provided a course of practitioner-centred, practice based workshops which focus on giving practical solutions, tools and strategies so that practitioners can identify legal issues and use the law to resolve problems for the young people they work with.

FEEDBACK FROM OUR Street Legal Solutions Event – 20th November 2017:

“Very useful for capacity building – also will encourage to make referrals”

“...good to get an understanding of how to better support YP and have the confidence to challenge situations.”

“Informative, feel more confident about applying the law to cases I am working on.”

The most useful thing I learnt today is:

- “that I can challenge decisions that affect young people.”
- “that young people may have legal rights and there may be ways to help them.”
- “how to assist and advocate regarding housing situations and who to contact for help.”
- “there are ways around the barriers – rights and entitlements.”
- “clarity on legislation which applies to people but in layman's terms.”

This training is backed by second tier advice and in depth guidance on the law for advocacy workers so they can challenge decisions and enforce the rights of young people whose lives are currently too unstable to engage with a legal service. This approach supports early intervention, the guidance and

information about the law and rights that the lawyer provides enables the practitioner to resolve the issue for the young person at an early stage while ensuring the young person's enforceable rights are preserved so that an effective legal challenge can be brought if necessary.

CASE STUDY:

A young woman with a baby was being supported by a local organisation. The young woman was staying with her mother, but the property was overcrowded and unsafe and unsuitable for a number of reasons. She wanted to get her own tenancy. She had approached the Council for accommodation, and they acknowledged that she was effectively homeless and entitled to housing, but she was told that she would have a long wait in temporary accommodation before a council flat became available and that the only temporary accommodation she could be given for that indefinite period was in a B&B. She declined this as she knew a B&B would not be suitable for her baby. Her support worker had been to a training event and remembered our solicitor saying that there were rules about suitable temporary accommodation. We sent the support worker the relevant legislation and told her that the law says that the council must not put a homeless family in B&B accommodation for more than an emergency 14-day period, and as a last resort and that the Council needed to find an alternative or they would fail to meet their legal duty to the family. The support worker and young woman then met with her housing officer and were able to tell them they knew what they were entitled to. After the meeting the young woman was offered a short-term, affordable tenancy suitable for her to have her baby with her.

JUSTICE FIRST FELLOWSHIP

Clan is part of the Legal Education Foundation's Justice First Fellowship scheme which funds the work of a trainee solicitor (known as a "Justice First Fellow") and allows the trainee to develop and implement a project that advances access to justice. Our Justice First Fellow, Jenna Hall joined us in January 2017 and is delivering a project aimed at increasing access to justice for LGBT+ young people in Scotland.

Jenna talks about her traineeship at Clan Childlaw:

“The great thing about being a trainee at Clan is that there is no typical work day. I am always doing something different, from advocating for a child in a children’s hearing to networking with other professionals. I am able to meet children and young people out in the community, in schools and other places where they feel comfortable meeting through our outreach service. It really feels like you are doing meaningful work that is making a difference to children and young people.

We have a really supportive environment at Clan and I feel I have extra support being part of a network of JFF fellows. This has been crucial to my time as a trainee and building up experience as a future social welfare lawyer.”

LEARNING & DEVELOPMENT

Clan Childlaw delivers training to professionals involved in child law, with a focus on **children's rights** and the **United Nations Convention on the Rights of the Child**. The training unit has been steady throughout 2016-2017, training 904 delegates across Scotland. We continue to train across the two major themes of **Children's Rights** and **Children's Hearings**.

We delivered two blocks of training across Scotland, attended by solicitors, advocacy workers and other professionals working with children and their families. We provided bespoke training to third sector organisations, training on behalf of the City of Edinburgh Council, specialised children's rights training to sheriffs and to university students. Our Effective Participation and Strategic Litigation events were well attended by solicitors and other professionals.

Of 178 completed evaluation forms, 100% indicated that the session attended will help with their job. Testimonials from some of our training sessions include:

"It was superb! :) Very realistic and detailed. Thank you all!"

"Really helpful and delivered well, it has taken away some of the anxiety around court and has helped me feel more prepared - well done."

"Really useful training event with a good balance of info sharing, group activities, case studies and reference info to take away."

"Brilliant morning, enjoyed structure of discussion and good level of info...very detailed knowledge of subject."

"100% new to children's rights but understood everything. Really well explained and at a great level."

POLICY

KEY AIMS

- Make changes to Scots Law in order to ensure that the rights of children and young people, especially those with care experience, are upheld
- Create policy changes where required
- Ensure that policy provisions are being implemented

Children's Rights in Scotland: using the law and human rights to advance policy

This project, supported by the Baring Foundation, Esmée Fairbairn Foundation the Legal Education Foundation, seeks to use law, legal processes and human rights to progress policy issues to tackle discrimination and disadvantage in relation to children in Scotland. Following a successful first year, we were delighted to be awarded three-year funding to continue the project from 2017-2020. The project combines work to use the law to achieve our own policy goals with work to promote and facilitate use of the law by other actors in Scotland to further children's rights, including coordinating the Children's Rights Strategic Litigation Group. We hosted a Human Rights Masters student from the University of Edinburgh who completed a research project on voluntary organisations' involvement in strategic litigation.

Together & UNCRC

Our Policy and Advocacy Consultant is the Chair of Together (Scottish Alliance for Children's Rights). This puts us right at the centre of children's rights policy work in Scotland. She contributed to the 2017 State of Children's Rights in Scotland Report published by Together in November 2017.

Policy areas where we sought change

Access to justice: we provided written and oral evidence to the Independent Legal Aid review, highlighting the need for independent and confidential legal aid for children to help secure access to justice.

Effect of childhood offending later in life: we continued to call for the very different nature of childhood offending behaviour to be reflected in law to reduce adverse implications later in life, supporting in particular raising the minimum age of criminal responsibility, protecting children's rights in the disclosure of criminal records, and ensuring pre-charge anonymity for children.

Equal protection: we collaborated with partners to support changing the law to remove the legal defence of ‘justifiable assault’ for the physical punishment of children so as to give children equal protection against assault as adults. We coordinated a Children’s Rights Strategic Litigation Working Group on Equal Protection, which instructed and published a legal opinion on compatibility with human rights law.

Future of the care system: we engaged with the Independent Care Review to give our views on what should be included in the review, emphasising the importance of prioritising looked after children’s sibling relationships.

Information sharing & privacy: having intervened in the Supreme Court case which found the information-sharing provisions of the Names Person scheme incompatible with article 8 ECHR, we engaged with the Scottish Government and Scottish Parliament’s Education and Skills Committee in relation to the Bill proposed in response to the judgment.

Sibling contact: we continue to campaign for a strengthening of the law to promote sibling contact, particularly for looked after children, and the recognition of sibling rights in legal processes. We worked with a host of partners to raise awareness of the difficulties faced by children and young people experiencing separation from and unsatisfactory contact with their brothers and sisters.

Voice of the child: as a member of the Family Law Group of the Scottish Civil Justice Council, our Policy and Advocacy Consultant chaired a sub-group which re-wrote form F9, the form which gives children the opportunity to state their views in family law proceedings. Membership of the Family Law Group gives us a good opportunity to strongly influence the development of child-friendly court rules particularly in family actions.

OUR FUNDERS

We would like to take this opportunity to thank all of those who have supported our work during 2016-2017. Grants from the Scottish Government Children's Rights Team and the Children, Young People and Families Early Intervention Fund, City of Edinburgh Council, Lloyds TSB Foundation, the Volant Charitable Trust, the Esmée Fairbairn Foundation, Paul Hamlyn Foundation, the Baring Foundation, RS McDonald Trust, the Legal Education Foundation, Portrack Trust and Big Lottery have been gratefully received. We also continue to be extremely grateful to individual supporters who donate directly or in kind.