



Disabled Children and Young People (Transitions)(Scotland) Bill
Children In Scotland
January 2020

Children in Scotland

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do.

By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced and independent voice. We create solutions, provide support and develop positive change across all areas affecting children in Scotland.

We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

Children in Scotland (CiS) manages Enquire, the national advice service for Additional Support for Learning, the Resolve: ASL Mediation service and the Inclusion Ambassador Network, and is a partner in delivering the My Rights, My Say project. As such, we are keenly aware of the additional support for learning landscape in Scotland. We have also drawn on our Evidence Bank¹, a free online resource which seeks to gather, promote and share the voices and experiences of Children and Young People across Scotland on the subjects that matter to them.

We are pleased to be able to contribute to this consultation on the Disabled Children and Young People (Transitions) (Scotland) Bill.

¹ <https://evidencebank.org.uk>

1. What challenges do you think children with a disability face in the transition to adulthood?

The transition from childhood into adulthood is a significant change for all young people and consideration should be given to disabled young people who will require dedicated planning and ongoing support into adulthood to fulfil their potential.

We would strongly agree with the overview provided in the consultation document outlining the variety of issues faced by disabled young people transitioning into adulthood and welcome the opportunity to participate in consideration of how this can be improved. We commend the introduction of this Bill and the championing of much needed change for this group. Our comments that suggest a different approach to the one that has been proposed are in no way intended to undermine the need for specific action to enable the realisation of children's and disabled persons rights.

This proposed legislation is in line with amendments to the Children (Scotland) Act 1995 that ensures continuing care is available for children and young people who have been looked after. Children in Scotland support this more gradual approach to transitioning into adulthood and independence and recognise the benefit of legislation considering the needs of disabled children and young people.

2. Do you think that children and young people with a disability should have a statutory right to a transitions plan?

Children in Scotland would agree that a statutory Transitions Plan would, as outlined in the consultation document, help to ensure that the opportunities available to disabled children and young people to access, for example, employment, training and educational opportunities are significantly increased. The benefits of a statutory plan are ensuring a level of consistency, clearly defined rights and entitlements and access to means of redress if required. However, we are concerned that without the security of a Child's Plan in statute to embed this within, the experience of significant inconsistency across Scotland in the use of Co-ordinated support plans and without clear alignment with the transition duties within the Education (Additional Support for Learning) (Scotland) Act 2004, as amended a new transitions plan would not have the intended impact.

Children in Scotland supported the introduction of Child's Plans within the Children and Young People (Scotland) Act 2014 because of feedback from parents and carers to our services and projects indicated that it can be overwhelming for professionals and families to keep track of multiple plans and this can be a barrier to planning being implemented effectively. We believe it is important that there is consistency in the plans that children, families and professionals must work with and familiarise themselves with to avoid excessive

duplication of information. At this moment we feel that with the announcement from the Deputy First Minister in 2019 that Parts 4 and 5 of the Children and Young People Act would be repealed means incorporation of any new transitions plan into a Child's Plan cannot be the vehicle to lead to the change sought.

Similarly, the experience of the opening of Co-ordinated support plans (CSPs) across Scotland is very varied. Although not all disabled children will meet the criteria for a CSP many will and these plans have shown the challenges between policy intention and implementation, especially at a time when local resource is so limited.

We are aware that the response from the Children in Scotland managed Enquire service highlights the statutory duties in relation to planning within the Education (Additional Support for Learning) (Scotland) Act 2004, as amended which address some of the gaps and issues for disabled children and young people outlined in this Bill's introduction. This is an Education Act but refers to other agencies in these duties. We feel that the application of these duties must be considered by local authorities and are hopeful that the review of the implementation of Additional Support for Learning that is due to report in February 2020 will lead to improvements for all children and young people with additional support needs.

3. Why do you think that a transitions plan would be helpful or unhelpful?

Please refer to the response to Q.2

As indicated in a different context there are clear benefits to a Transitions Plan to help support the move into adulthood, lower anxiety and ensure that support does not suddenly drop off or change for those who need it. However, it is our view that the current context does not lend itself to the realisation of the aims of a new proposed plan.

Additionally, the scenarios in which a Transitions Plan may be unhelpful or where further consideration is needed and that add to the points, made in the question 2 response could be:

- A meaningful plan requires adequate capacity amongst professionals, this needs to be considered thoroughly within any transitions strategy
- There is a lot to reflect on in relation to dispute resolution within the ASL Act. Any statutory plan requires mechanisms to resolve disputes when commitments are made in a plan that are not met. The introduction of any new statutory plan would need to detail how and where disagreements would be raised.
- The process is not fully accessible to children, young people and their families. We fully support the references to co-production and

involvement of disabled children and young people in considering and planning their transition.

4. Will a National Transitions Strategy assist disabled young people to achieve independent living?

A National Transitions Strategy is a very good place to start in improving outcomes for disabled young people to live independently. However, a strategy alone will not assist young people to live independently. There must be enough availability of support and resources to meaningfully enact this strategy. We fully support the Principles of Good Transitions developed by the National Transitions Forum² and would encourage any strategy to draw on these principles and the work Arc Scotland is leading on to implement the principles into practice. We also fully support the recommendations that were made in the report produced by the Health and Social Care Alliance Scotland in 2017 titled the Experiences of Transitions to Adult Years and Adult Services³ particularly recommendation 6 Coordination and Point of Contact and recommendation 8 Planning in Partnership.

We note that in the consultation paper (p11-12) the long-term cost and resource benefits of increased independence are highlighted. However, we are aware that in some areas of service provision, even a small increase of expenditure of time and resources, even if it will have long term benefits, can feel overwhelming to already stretched services. This is where consultation with service providers and local authorities will be key in ensuring that they are able to share their views on how this can be done in a sustainable manner.

While a strategy and legislation will go some way to improving consistency, support for disabled children and young people's transitions into adulthood is currently not meeting needs largely because of wider structural issues, as outlined in the background to the Bill. The strategy should aim to look at these issues.

5. What do you think the advantages and disadvantages would be of a National Transitions Strategy?

See response to Q.4

6. Do you think it is necessary for there to be a Minister in the Scottish Government with special responsibility for ensuring that children and young people with a disability receive appropriate levels of care and support in the transition to adulthood?

² <https://scottishtransitions.org.uk/7-principles-of-good-transitions/>

³ <https://www.alliance-scotland.org.uk/wp-content/uploads/2017/11/ALLIANCE-GIRFEC-Experiences-of-Transitions-to-Adult-Years-and-Adult-Services-2017-1.pdf>

Children in Scotland does not believe that there needs to be an additional ministerial position with specific responsibility for transitions. We would instead suggest that disabled children and young people's transition into adulthood is added to an existing ministerial brief. This may require a redefinition of that brief, similar to the Minister for Childcare and Early Years becoming the Minister for Children and Young People.

7. Do you have any other comments?

Accessibility of information

Section 1(4) of the Bill sets out the expectation that the National Transitions Strategy sets out how information should be shared with children and young people. It is not just guidance that should be accessible consideration should be given to the accessibility of the Bill itself as well as all related guidance and information.

“All relevant legislation should be simple and easy to read”⁴

Dispute resolution

We would seek clarity on the process for dispute resolution and redress concerning transitions and any new plan and whether this would form part of the proposed ministerial responsibilities.

The ASN Tribunal (Health and Education Chamber of the First-tier Tribunal for Scotland) is currently able to hear references relating to post-school transitions which is a point of overlap with the proposals within the Transitions Bill. It may be that this route to redress could be supported as part of any new legislation. Ease of access for children, young people and their families should be the priority when deciding these pathways.

A rights-based approach

We support the rights-based approach of this legislation, specifically the emphasis that the plan should belong to the child or young person and that they should be at the centre of planning (p.6/7). We would welcome a reference to children's rights and the rights of people with disabilities within the legislation itself, particularly as Scotland moves towards incorporation of the UNCRC.

We would suggest that the child or young person's right to be involved in deciding what information is shared and with whom with as they transition into services with is also included in the Bill. This is building on the inclusion of the right of children with additional support needs to be involved in deciding what

⁴ © Rights of Children with Disabilities - Children and Young People's Evidence Bank
Source: <https://evidencebank.org.uk/evidence/inclusion/rights-of-children-with-disabilities/>

information is shared when they leave school.⁵ While the majority of disabled children and young people will receive beneficial support from their families and will want them to be fully involved in their transitions planning, a rights-based approach would also give a young person with capacity the right to decide how much information is shared with their parents or carers.

As this legislation applies to children 14 and over, this is above the age of assumed legal capacity. The only mention of capacity in the draft Bill at this stage is in relation to dispute resolution and it is unclear whether there will be an assumption of capacity or an expectation that capacity is verified in each case. We would advise guidance from the Equality and Human Rights Commission and Children and Young People's Commissioner is sought in respect of capacity considerations.

Children in Scotland would also recommend that a child or young person's right and capacity to play a key role in developing any plans, to have the opportunity to share their views about the support they require and to consent to information sharing as necessary should be included in the Bill.

In our experience as a partner in the My Rights, My Say service, access to independent information and advice, advocacy and independent support to help children and young people to share their views is critically important to ensure a person-focused and rights-based approach is taken.

“We need to be empowered and supported to make choices and decisions through the support of organisations such as GDA”⁶

“We must be able to easily access information about our rights and support should be in place to achieve this”⁷

This additional support to ensure children, young people and their families are informed and able to access their rights should be included in a Transitions Strategy, which we look forward to responding to as this critical debate continues.

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⁵ Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)

⁶ © Rights of Children with Disabilities - Children and Young People's Evidence Bank
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