



Call for views

Children (Care, Care Experience and Services Planning) (Scotland) Bill

August 2025

Response to call for views on the Children (Care, Care Experience and Services Planning) (Scotland) Bill

Children in Scotland

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About 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 lives of children and families in Scotland.

Introduction

Children in Scotland is pleased to respond to the Education, Children and Young People Committee's Call for Views on the Children (Care, Care Experience and Services Planning) Bill. We welcome the introduction of this Bill as a significant step in realising the Scottish Government's promise to care experienced children, young people and families by 2030.

Our response to this call for views builds on previous consultations launched by the Scottish Government on aspects of policy relating to care experience that are included in this Bill. This includes our response to the ['Moving on' from care into adulthood](#) consultation and [developing a universal definition of 'care experience'](#). We have also drawn on our experience working with care experienced children and young people across our engagement work, including the pupil support staff learning programme, supported by the Keeping the Promise Fund.

Across our entire membership there is a shared commitment to supporting the delivery of the promise by 2030. Many of our members work directly with care experienced children and young people in different capacities and our

aim is to adequately represent their views in this response. We can say with confidence that legislation to make the necessary legal changes to deliver the promise is broadly supported by our members. Alongside many of our members, we also share the view that one of the most effective ways to improve outcomes for children and young people and address ongoing challenges in the care system is to prevent people from entering care whenever possible or appropriate.

The detail of the Bill and how effective proposals will be in practice is of crucial importance and this is what we seek to address in our response. The below firstly presents our general comments on the legislation before responding to the ten questions included in the call for views.

General Comments

Children in Scotland welcomes the introduction of the Children (Care, Care Experience and Services Planning) (Scotland) Bill and recognise that the Bill provides a positive step in realising the Scottish Government's commitment to keeping the promise to Scotland's care experienced children, young people and families.

The Independent Care Review highlighted that the range of policy, laws and plans around care do not all work together, creating an overly complex and confusing legislative context. Action to address this has been set out in Plan 24-30 and the Children (Care, Care Experience and Services Planning) (Scotland) Bill includes several important proposals to help realise this plan.

We acknowledge that the Scottish Government has created several opportunities for consultation related to aspects of the Bill up until its introduction, including the 'moving on' from care into adulthood, universal definition of 'care experience', and hearings system redesign consultations. However, as highlighted in the relevant call for views questions, several aspects of the Bill do not appear to involve meaningful consultation and engagement with the range of key stakeholders.

We must also recognise the short period given to respond to this call for views and the timing of the consultation period over summer where organisations are typically operating at a lower staff capacity. A longer period to prepare this response would have allowed for a more in-depth analysis and support better scrutiny from the lead committee.

To deliver the promise for Scotland's children, young people and families, competent legislation is required to address the complexity of existing policy and law. We know that to produce competent legislation, sufficient time

must be allowed for detailed analysis and to scope improvements. With this considered, we have serious concerns about whether the Bill can be appropriately scrutinised and amended given the limited time remaining in Session 6 of the parliament.

In our scrutiny of the Bill, it is also necessary for us highlight that two provisions included in Section 1 and Section 10 have been drafted in a way that they would follow out of the scope of the UNCRC (Incorporation) (Scotland) Act 2024. This means they are out with the compatibility duty and remedy provisions of the UNCRC (Incorporation) (Scotland) Act, effectively meaning children cannot seek legal remedy or redress if their rights are not upheld when these provisions are applied.

Children in Scotland is a member of Together, the Scottish Alliance for Children's Rights, and we strongly support their call to ensure that Section 1 and Section 10 of the act are re-enacted as standalone provisions within this Bill – therefore within the scope of UNCRC legislation. Doing so will ensure that children's rights are promoted and protected in all efforts to deliver and keep the promise to Scotland's care experienced children, young people and families.

Questions

Part 1, Chapter 1

1. What are your views on the aftercare provisions set out in the Bill?

The aftercare provisions set out in the Bill are a welcome development in the effort to support care experienced young people as they transition into adulthood. By expanding the eligibility to include those who left care before their 16th birthday, it recognises that care experienced people often face additional barriers and inequalities, regardless of when a young person exited the care system. The proposal to offer support up to the age of 26 is also a step in the right direction, reflecting the growing understanding that care experience does not end when formal care ends.

However, as we highlighted in our response to the 'Moving On' consultation, these changes, while positive, do not go far enough. Limiting eligibility to a certain age risks excluding individuals who may still require significant support but fall outside that age threshold.¹ The Bill does allow local authorities to

¹ Children in Scotland, (2024), ['Moving on' from care into adulthood consultation](#).

exercise discretion to continue providing aftercare support beyond the age of 26 where needed. While this flexibility is indeed important, relying on discretion rather than a clear entitlement could result in inconsistent practice across the country. It could place the burden on young people to navigate variable thresholds in the decision-making process, which may be shaped by local resources and frameworks rather than individual need.

We support a system of aftercare support that is not limited by age but allows for ongoing support facilitated by a strength-based approach to assessing individual needs. This approach allows for individuals who would benefit from support beyond 26 years old to access it in addition to developing greater autonomy and capacity to transition beyond aftercare.

A more flexible and equitable system would align more closely with the principles underpinning Scotland's broader policy landscape, particularly The Promise, which recognises that care experience can have lasting effects well into adulthood.² While the UNCRC (Incorporation) (Scotland) Act 2024 and the Getting It Right For Every Child framework apply to children and young people under 18, their emphasis on rights, wellbeing, and individual need provides a strong foundation for designing transitional and aftercare support. Ensuring continued access to support where it is needed, even beyond age 26, is consistent with these values and is vital to upholding the commitments set out in The Promise. A Human Rights Bill for Scotland – currently being scoped by the Scottish Government - would also incorporate a range of international rights treaties, including those covering economic, social, and cultural rights further reinforces the case for a needs-based approach to aftercare. A Human Rights Bill would aim to embed dignity, participation, and accountability into law for all, and its introduction would strengthen the expectation that public services must respond to the rights and lived realities of care experienced people across their life course, not only during childhood.³

Additionally, while the proposed financial assistance and expanded eligibility are encouraging steps forward, real progress will depend on how well these changes are resourced and implemented. As the Bill states there is already substantial evidence, through The Promise, the Independent Care Review, and initiatives like Home and Belonging on what works to support care experienced young people.⁴ We agree that policy should now focus on embedding that learning in practice, ensuring that support is consistent, trauma informed, and grounded in relationships.

² [The Promise, \(2020\), Independent Care Review](#)

³ Scottish Government, (2023), *A Human Rights Bill for Scotland: Guide to the Consultation*

⁴ Children in Scotland, Staf, (2022), [Evaluation of the Home and Belonging Initiative](#).

2. What are your views on the corporate parenting provisions set out in the Bill?

The Bill's expansion of corporate parenting duties to include anyone under the age of 26 who has ever been in care aligns well with the principles of effective corporate parenting. Who Cares? Scotland have given weight to the idea that corporate parents must act as good parents, emphasising love, security, opportunities, and ensuring the holistic wellbeing of care experienced individuals. While this expansion is a step in the right direction, we support the view of WhoCares? Scotland that the Bill should be extended for these rights to apply to all care experienced people beyond the age of 26, this way the idea to keep the promise across Scotland by 2030 is more realistic and achievable.⁵

In the absence of legislation, some Corporate Parents have proactively extended their support and policies to care experienced adults over the age of 26 which is an approach we recognise and commend as best practice. This has been particularly evident within higher education where access to degree level study has been widened through initiatives such as minimum entry requirements, the Guaranteed Offer, and the Care Experienced Student Bursary, all of which promote equality without imposing an upper age limit. However, we agree with colleagues across the sector that this approach is not consistently applied across sectors and geographic areas. The Bill could present an opportunity to embed good practice into law which would ensure that all those who have care experience, regardless of age, have equitable access to support.⁶

The Bill expands on the duties set out in Section 57 of the Children and Young People (Scotland) Act, requiring corporate parents to identify and assess needs, promote the wellbeing of care experienced individuals, take appropriate action and work collaboratively with other agencies.⁷ We believe this requirement, if done well, will help to reinforce consistency between legal obligations and best practice across the sector. This also reaffirms the role of corporate parents in coordinating services to meet young people's needs and in providing opportunities that support positive outcomes. These provisions recognise that young people who leave care early can face the same barriers as those who leave later, and that a consistent, joined up approach is essential for improving outcomes into

⁵ WhoCares? Scotland, (2023), [Corporate Parenting Progress Report 2018 – 2021](#).

⁶ [Who Cares? Scotland, \(2025\), MSP Briefing Children \(Care, Care Experience and Services Planning\) \(Scotland\) Bill](#)

⁷ Children and Young People Act (Scotland), (2014), Section 57.

adulthood and fulfilling the commitments of The Promise. However, further clarity is needed on how this approach will be implemented in practice, and which mechanisms will be in place to monitor delivery and ensure accountability.

We must also emphasise the importance of listening to care experienced voices, views and experiences, and enabling their meaningful participation in decision making. The right of children and young people to be heard on the decisions that affect them is enshrined in article 12 of the UNCRC and legally binding through the UNCRC (Incorporation) (Scotland) Act.⁸ As the Bairns' Guide outlines, corporate parenting must be characterised by "warmth, listening, communication, and personal concern" going beyond institutional responsibility to act with genuine care and commitment.⁹ Actively involving care experienced individuals in shaping the services and policies that affect them would go a long way toward making this approach more meaningful and effective.

3. What are your views on the advocacy proposals set out in the Bill?

We strongly support in the proposal laid out in the Bill that seeks to enshrine a legal right for care experienced children, young people and adults to access independent advocacy services. We understand that navigating Scotland's 'care system' can be extremely complex and that independent advocacy services could provide a way for care experienced people to access support moving through and beyond the system. Independent advocacy helps children and young people have a voice and be at the centre of decisions made about their lives – we know this to be especially valuable for children and young people moving through the care system where they can often feel shut out of decisions made by professionals about their lives.

Enshrining a right to advocacy

The Independent Care Review highlighted the various barriers care experienced people face as they move into adulthood.¹⁰ Enshrining a right to lifelong advocacy in legislation provides a valuable way to help address inequalities by supporting care experienced people to understand their rights, entitlements and unique benefits. A right to advocacy supports Scotland's

⁸ UNCRC (Scotland) (Incorporation) Bill, (2024)

⁹ [Scottish Government, \(2008\), *These are our bairns: a guide for community planning partnerships on being a good corporate parent*](#)

¹⁰ [Independent Care Review](#) (2020)

care system to centre the voices and views of children and young people when they are in the system and as adults 'moving on' from care.

Children in Scotland delivers the national education information and advice service [Enquire](#) and the Children's views service as partners in the national [My Rights, My Say](#) initiative. We regularly hear the positive impact that our services have in supporting pupils to access their rights and achieve positive resolutions. The importance of advocacy for young people facing additional barriers to their education – including care experienced children and young people - cannot be understated. Reflecting on our experience of delivering advocacy in the education context, we strongly support legislative measures that increase access to advocacy and protects entitlements for care experienced children, young people and adults in Scotland.

A regulatory approach

We support an approach to establishing a lifelong advocacy service for care experienced people that meets their needs based on stage of care and not age. Doing so recognises that the individual support needs of care experienced people vary significantly and is not determined by one's age. We support the view that independent advocacy services should be as flexible as possible in meeting the diverse and evolving support needs of care experienced children, young people and adults over their lifetime.

The regulatory approach proposed in Section 4 of the Bill provides the appropriate foundation to build a flexible and responsive independent advocacy service for care experienced people in Scotland. This approach acknowledges that Scotland currently has a diverse landscape of advocacy services, all of whom are experts in delivering advocacy in their geographic or policy areas. We support an approach which does not seek to duplicate provision and can make effective use of existing expertise to ensure best outcomes for care experienced

As an example, our Enquire and Children's Views services provide expert advice, information and advocacy to care experienced pupils who are facing challenges in accessing appropriate additional support in their education setting. It would help create the best outcome for these pupils to work with Enquire and Children's Views practitioners should they experience issues with the delivery of their education. When experiencing challenges in other aspects of their lives, it would be most appropriate for care experienced children and young people to engage with advocacy services with expertise in the relevant issues and processes for remedy. This approach ensures that care experienced children and young people are

afforded the best opportunities to suitably address cases where their rights are not being met.

Scoping work undertaken by The Promise Scotland published in 2023 effectively lays out a phased approach to delivering a national lifelong advocacy service for care experienced people.¹¹ This includes an ongoing commitment to ensuring the sustainability of existing advocacy while a National Strategy for advocacy provision is developed and core principles are agreed. We strongly support the calls in this report for a future national strategy for advocacy provision to work in tandem with existing relevant legislation, particularly the UNCRC (Incorporation) (Scotland) Bill.¹² As with all policy and legislation intending to establish a right to a service or benefit, it is vital that this is embedded in an established rights treaty.

We understand the Scottish Government has closely considered the scoping report by the Promise Scotland in developing the legislative proposals included in the Bill. We encourage the Committee to work closely with the Promise Scotland, the independent advocacy sector and care experienced people as it scrutinises proposals laid out in the Bill.

Committing to sufficient resource

As demonstrated in the above response, to deliver a lifelong right to advocacy for care experienced people will require effective collaborative working between the Scottish Government, national third sector organisations and independent advocacy providers. It is likely that the process of delivering an independent advocacy service will withdraw capacity from independent advocacy sector as it responds and adjusts to developments. This is especially pertinent if the Scottish Government is to deliver a lifelong advocacy service by its stated target of 2030.

The guiding principles outlined in the introduction to the Bill state that all proposals must be matched with suitable resource to ensure effective implementation. Should this Bill retain its proposals following Committee scrutiny and subsequently become legislation, the Scottish Government must commit to adjusting and increasing the costs outlined in the Bill's financial memorandum should that be necessary to ensure implementation.

¹¹ The Promise Scotland, (2023), Scoping and delivering a lifelong advocacy service for care experienced children, adults and families.

¹² UNCRC (Scotland) (Incorporation) Bill, (2024)

4. What are your views on the proposals for guidance in relation to care experience?

We support the proposal to develop statutory guidance on care experience, as a step toward achieving more clarity and consistency across services. As we have highlighted previously in our response to the definition of care experience consultation, the lack of shared understanding of what constitutes care experience at present creates barriers for children and young people to access support. Clear guidance would help reduce inconsistencies and ensure that those with care experience, regardless of when or how long they were in care, are appropriately recognised.

We believe the guidance must reflect how complex and diverse care journeys can be. For example, the guidance should include children who were in short term kinship care, adopted at birth or those who left care before their 16th birthday. Enquire, our Scottish advice and information service for additional support for learning, have expressed strong support for the guidance as this would allow educational settings, families and children and young people to develop a shared understanding of when a child is considered care experienced. This should not result in a narrow definition that is exclusionary by nature as this could leave out children and young people with genuine support needs.

It is also important that guidance addresses the relationship between any new definition of care and existing legislation, particularly in regard to the Additional Support for Learning (ASL) Act.¹³ Currently this Act applies to children who are 'looked after' and does not extend to individuals with broader care experience. Without changes to this, the new guidance risks having less of a practical impact in education. We must emphasise the need to align additional support for learning legislation and statutory guidance with Scotland's shift towards recognising the lasting impact of care experience through delivering The Promise. To make the most impact in practice, we believe the Education (Additional Support for Learning) (Scotland) Act 2004 and its statutory guidance should be updated to reflect a broader approach. This could include:

1. Broadening the presumption of additional support needs to all care-experienced children.
2. Requiring that all care experienced children be assessed for a Coordinated Support Plan (CSP). This would ensure that children who

¹³ Education (Additional Support for Learning) (Scotland) Act 2004

were not looked after during key educational transitions (such as starting nursery or school) are not overlooked.

While statutory guidance is not a substitute for direct rights-based support, it should reference the importance of advocacy, particularly for those who may struggle to have their voices, views and experiences presented and considered in adult and formal systems. This would help ensure that definitions or eligibility are applied fairly and supportively.

The guidance should also reinforce the importance of tackling stigma. As we noted in our response to the definition of care experience consultation, many young people do not identify with the term care experience. This is often due to stigma or the lack of clarity around what constitutes care experience. Effective guidance should use inclusive and strength-based language and actively challenge stigma by showing that care experience is diverse and nothing to be ashamed of.

To be truly impactful, the guidance should also be co-produced with people who have care experience. This will ensure that it reflects the complexity of lived experience and avoid unintended harm. This process should be supported by sector professionals who have clear professional guidelines to support this type of work, this will promote understanding and consistent application in practice. While we acknowledge that the Policy Memorandum cites co-production as best practice, we believe that this should be a specific requirement within the Bill itself, to ensure genuine participation and accountability in the development of the guidance.

Part 1, Chapter 2

5. What are your views on proposals designed to limit profits for children's residential care services?

The proposals to limit profits in children's residential care services appear to be a proportionate response to long standing concerns about the role of private profit in the care system. We believe that social care efficiency must be measured by child outcomes and focused on a rights-based approach to delivery of children's residential care – profit motivations present a challenge to this and should therefore be removed from the system. Evidence of this challenge between profit and best outcomes for the child are demonstrated

the 2021 report of market competition in children's social care provision completed by CELCIS.¹⁴

Moreover, the Bill's policy memorandum notes that all provisions must be considered through the lens of UNCRC (Incorporation) (Scotland) Act. We would invite further clarity on how proposals to limit profit will demonstrably improve outcomes for children and young people and how the Scottish Government will monitor and evaluate the impact from a perspective of rights and lived experience.¹⁵

The Bill's emphasis on transparency around the requirement to publish financial data is a great step towards ensuring accountability. However, the financial memorandum and policy memorandum reveal a disconnect. While they anticipate administration costs there is limited clarity on how data will be collected, managed and published and the associated cost around this particularly in how realistic they are or if the policy aims are achievable.

The Bill supports the core idea that public funding for care should be reinvested in improving outcomes for children, not shareholder returns. However, questions remain about the clarity and sufficiency of evidence for these reforms within Scotland. While similar reforms, such as the Health and Social Care (Wales) Bill and the Children's Wellbeing and Schools Bill, suggest wider UK momentum, the picture in Scotland is less clear.^{16,17} While the UK context and the Competition and Markets Authority data is illuminating, more work is needed to understand what profit regulation would look like within a Scottish context and whether legislation is needed to achieve this goal.

We also believe that implementation must be carefully considered particularly in relation to workforce. It is unclear how these proposals will interact with existing workforce. To avoid confusion, this must be addressed to avoid instability within the care system.

Overall, we agree that the proposals appear both appropriate and necessary to realign residential care with the values of equity, accountability, and child centred practice. However, it is evident that successful implementation will require investment in not-for-profit provision, evidence of benefit and close attention to the impact on children, families and the workforce.

¹⁴ [CELCIS, \(2021\), Competitions and Market Authority Study of Children's Social Care Provision](#)

¹⁵ [Who Cares? Scotland, \(2025\), MSP Briefing Children \(Care, Care Experience and Services Planning\) \(Scotland\) Bill](#)

¹⁶ Welsh Government, (2025), *The Health and Social Care (Wales) Bill*

¹⁷ UK Parliament, (2024), *The Children's Wellbeing and Schools Bill*

6. What are your views on proposals to require fostering services to be charities?

The logic in requiring all fostering services to be registered charities appears to be an appropriate development, as it aligns with the wider commitment to eliminate private profit from the care of children. We agree with the rationale set out in the Policy Memorandum which highlights that while current legislation requires fostering agencies to be voluntary organisations, this definition has proven difficult to enforce and allows for loopholes. Replacing this with a clear requirement for fostering providers to be UK registered charities introduces stronger accountability, transparency, and public confidence.

Registered charities in the UK are required to reinvest all profits towards their charitable aims, which supports ethical practice. This aligns with the Promise's vision that care should always be centred on the child, not financial return.¹⁸

The proposed 18–24-month transition period for existing providers to adapt is a practical and proportionate step that allows the sector to adjust without disrupting placements. However, the question of how this transition will be implemented in practice remains. It is unclear what support, or guidance will be provided to fostering services during this period and how compliance will be monitored and whether there will be consequences for those who are unable to meet new requirements within that timeframe.

It is also our understanding that there was limited consultation specifically around this aspect of the Bill. Key stakeholders like Social Work Scotland and colleagues across the third sector would have helped shape the Bill's proposals and could have provided detail on how changes will be made. In future stages of the Bill, it would be important for the Scottish Government to work collaboratively with frontline professionals to ensure that implementation is realistic and child centred.

While some concerns have been raised within the Bill about the potential impact on provider flexibility, this may have been mitigated through more thorough consultation and engagement with the sector prior to the Bill's introduction. The rationale presented is sound, but earlier involvement of key stakeholders may have reduced uncertainty and strengthened support for this values-based approach to reforming the care landscape.

¹⁸ [The Promise, \(2020\), Independent Care Review](#)

7. What are your views on proposals to maintain a register of foster carers?

Section 10 of the Bill proposes the introduction of a national foster carer register to improve transparency, standardisation, and recognition across the fostering sector. Currently, foster carers are approved and held on separate agency lists, which, from our understanding, can create inconsistencies in how information is managed and limit mobility between local authority and independent fostering services. A national register would help address these challenges by creating a single, authoritative source of information.

We welcome the proposal to give Scottish Ministers the power to create such a register as we recognise its potential to increase safeguarding and improve public protection measures. The policy memorandum also highlights the potential to raise the status of foster carers and improve outcomes for children and young people, particularly in relation to placement matching and sufficiency planning.¹⁹

In this context, we agree that recognising foster carers as a vital part of the care workforce and emphasising their professional identity is crucial. This approach also aligns with The Promise, which views foster carers as central to providing loving, stable, and supportive homes for children.

We also recommend that the register include a way of recording complaints or concerns raised about a foster carer. This would support early identification of potential patterns of concern and contribute towards a more robust safeguarding system.

It would also be helpful for further detail on who will be responsible for maintaining the register and how it will interact with existing regulatory and inspection agencies. Clear expectations and governance will be key to protecting foster carers and the children in their care. Additionally, training and guidance should be provided to ensure consistent and accurate use of the register.

Part 1, Chapter 3

8. What are your views on the proposed changes to the Children's Hearings system?

Children in Scotland recognises that the Bill proposes many positive changes to the delivery of Scotland's hearing system that help will ensure the system is sustainable for future use. As outlined in the accompanying policy

¹⁹ [*The Fostering Network, \(2025\), The Fostering Network welcomes Scottish Government's new Bill to introduce a register for foster carers*](#)

memorandum, the Children's Hearings System has successfully been reviewed and reformed at a number of points since its inception. We are pleased to see proposals that will ensure the system builds on this legacy and continues to enshrine the principles laid out in the original Kilbrandon report.²⁰ We know it is essential for the fulfilment of children's rights and wellbeing that the hearings system continues to operate on these core principles, now and into the future.

We are especially pleased to see proposals that seek to strengthen children's voices, views and experiences and embed trauma-informed practice across the hearings system. This approach will support children, young people, infants and babies to realise their rights as laid out in the United Nations Convention on the Rights of the Child. We recognise that the proposed changes rightfully give respect to the views of children and young people with lived experience of the hearings system and urge the Committee to consider these closely when scrutinising the Bill's legislative proposals.^{21,22} . We also understand that prior to the publication of this Bill, work to make improvements to the hearings system by strengthening the collective voice of lived experience and improving capacity across the system was underway. The Committee should consider this work in tandem with the proposals included in the Bill.

Our response to the Bill's proposals relating to the redesign of the hearings system does not include comments on all proposed changes. We have chosen to respond to those where our expertise could add value to the scrutiny process - where we have not commented on specific proposals, this is not to be read as blanket support. Instead, we ask the Committee to consider closely the expert responses submitted by key stakeholders who will support implementation, including Children's Hearings Scotland, Scottish Children's Reporters Administration and the Children and Young People's Centre for Justice, whose work we have used to inform our response.

Single member panels

We support the proposals outlined in Section 111 of the Bill to allow for the facilitation of single member interim panels when it is considered proportionate to do so. Allowing for interim meetings to take place with single members could support ongoing efforts to tackle drift and delay in the delivery of the system, allowing children to engage in a more consistent

²⁰ Report of the Committee on Children and Young Persons Scotland (1964)

²¹ Children's Hearings Scotland, (ongoing), [Experts by Experience](#).

²² [Our Hearings, Our Voices](#), (ongoing).

manner. Single member interim panels will also help release member capacity in the system, helping to ensure it can function sustainably.

Renumeration of chair and 'specialist' panel members

Amendments to current legislation laid out in Section 112 of the Bill proposes to give the National Convenor of the hearings system the authority to renumerate panel members to fulfil chairing roles and to appoint and renumerate 'specialist' panel members.

Considering first the renumeration of panel chairs, we believe this to be the correct approach to recognise the importance of this role to the effective functioning of the hearings system as a whole. Renumeration can help future proof the system by attracting and retaining current volunteers with experience in delivering panels. We also understand that children with experience of the hearings system have said that they want consistency in the panel members they work with, renumeration would support this consistency by ensuring chairing members have capacity to attend multiple meetings with the same child. In doing so, this will help ensure panels can be as responsive to the needs and wants of the child as possible.

The rationale for offers of renumeration to 'specialist' panel members appears less clear. We understand that a specialist group of panel members already exists in the hearings system and functions to provide expertise and lived experience when a panel would benefit from their insight. There is a risk that renumeration of specialist members, in panels where a chairing role is also renumerated, could create a challenging dynamic where only one or two members are attending on a purely voluntary basis. We believe it is important to recognise that this could result in voluntary panel members feeling not appropriately valued, potentially impacting their capacity to attend and support the effective delivery of panels. We encourage the Committee to consider whether this significant change can be appropriately balanced with the identified risks.

Process in establishing grounds for hearings

Section 14 of the Bill proposes changes to allow an enhanced role for the Principal Reporter in relation to ascertaining scope for agreement and understanding of the statement of grounds, through engagement with the child and their relevant person(s) in advance of a hearing.

We support proposals aiming to ensure better discussion, agreement and understanding of the statement of grounds with children, their families and other people considered to be relevant persons. Avoiding misunderstanding and disagreement about the statement of grounds is an essential aspect of

building positive and productive relationships between reporters, children and their families involved in the hearings system.

We believe that preventing a decision on the statement of grounds from being raised to the sheriff is important to prevent further drift and delay in the system. We know that grounds hearings can be an adversarial experience for many children and their families and support the view that measures to prevent drift and delay in the system can help ensure that children engage with the hearings system in a way that centres their best interest and is trauma informed.

Participation of relevant persons and removing relevant person's status

We support the proposals outlined in Section 15 of the Bill to allow the chairing member to make a decision to exclude a child's relevant person from the hearing when it is considered appropriate to do so. We believe this correctly facilitates for a trauma-informed approach to engaging with the hearings system, allowing for certain persons related to the child to be excluded when there are concerns about a child's safety.

We also support the power for the Principal Reporter to make a referral considering one's relevant person status and allow for a decision to be made by a sheriff to remove relevant person status when it is considered in the best interests of the child to do so. The proposal makes clear that in cases where relevant person status is removed, this is done to protect the rights of the child from serious harm as enshrined in article 8 of the European Convention on Human Rights. This appropriately sets a high threshold for the successful removal of person's status as a relevant person, giving due weight for the rights of parents/carers to be informed about decisions involving their child.

Removing obligation of the child to attend a hearing

We support the proposal included in Section 13 of the Bill which removes the obligation of a child to attend their hearing and replaces this with a 'presumption' that they will attend. We are pleased to see this proposal included in the draft legislation and recognise that the removal of obligation to attend was included as a recommendation in the 2023 Hearings for Children report.²³ This recommendation also made reference to that there must be no presumption that babies or infants will attend a hearing – a position we support.

We acknowledge that in many cases it is beneficial for a child to attend their hearing to ensure their right to be heard is realised and in some cases where not attending could infringe their right to a fair hearing. However, we

²³ Hearings for Children: Hearings System Working Group's Redesign Report, (2023)

understand the importance in enhancing a child or young person's choice in how they engage with the hearings system – including their choice to not attend.

We believe that all children involved with the system must be provided with sufficient information about their hearing and adequate support to attend. This support is essential to ensure that any child or young person is made aware of their right to attend and is provided with the appropriate guidance to make an informed choice about their attendance.

Advocacy

We have outlined our support for the role of advocacy in supporting care experienced children and young people earlier in this response and we apply the same understanding as to the value of advocacy for children and young people engaging with the hearings system. It is accepted that attending a hearing can be an overwhelming situation for many children and young people, advocacy services can play a significant role in supporting children and young people to understand their rights when attending a hearing.

We support the legislative proposals to place additional duties on public authorities, health boards and reporters to make children and young people aware of advocacy services available to them. We believe it is important to include this in legislation as a method to secure a child or young person's right to information as enshrined by article 13 of the UNCRC. The proposals will also help ensure that children and their families are made aware of advocacy support prior to attending and at different stages throughout their time engaging with the hearings system.

Part 2

9. What are your views on the proposed changes to Children's Services Planning set out in section 22 of the Bill?

Children in Scotland supports work to encourage greater collaboration between agencies involved in the planning and delivery of children's services - this includes agencies and organisations who are not currently involved in Children's Services Planning Partnerships. We also support efforts to strengthen accountability in the planning and delivery of children's services beyond those who currently hold statutory responsibility as laid out in the Children and Young People (Scotland) Act 2014.

The proposal included in Section 22 of the Bill to place a statutory responsibility on Integrated Joint Boards in the planning and delivery of children's services presents both benefits to improving collaboration and issues that we will outline below. Much of our response draws on our experience delivering the Supporting the Third Sector project and hearing directly from third sector organisations delivering children's services across Scotland.²⁴ As such, a priority for our organisation is ensuring that the voice of the third sector is heard by Children's Services Planning Partnerships and that third sector organisations hold an increased stake in the planning of children's services where appropriate. This perspective frames our response to the proposals laid out in the Bill.

The rationale for the decision to extend statutory responsibility to Integration Joint Boards is not clear in the Bill's policy memorandum and our response could have commented in more detail if this was provided. From our discussions with third sector stakeholders and sector colleagues, there is not a clear consensus on why the proposal is included in the Bill as a means to improve collaboration in children's services planning and delivery.

Children in Scotland sees both benefits and issues with the proposed changes to children's service planning legislation as outlined in Section 22 of the Bill. Below we have outlined these benefits and issues, primarily focusing on how the proposed changes would impact the stake of third sector organisations who play a vital role in keeping the promise through their delivery of many children's and adult transition services.

Potential benefits of the proposed legislative changes

Placing additional responsibilities on Integration Joint Boards to work with Children Service Planning Partnerships could promote the greater cooperation required to address persistent issues with transitioning between services. This could support Children's Services Planning Partnerships to achieve one of their overarching aims as identified in the Children and Young People (Scotland) Act 2014, Section 9 which states that services should be most integrated from the point of view of the recipient.

Integrated Joint Boards play a key role in directing local authorities and health boards to deliver a range of adult services, many of which have a clear impact on the lives of children and young people e.g., whole family support services and disability services. There are clear benefits to improving multi-agency working and cooperation between all stakeholders involved in the planning of children services – legislating to mandate this cooperation, in theory, could lead to improved outcomes for care experienced children and

²⁴ Children in Scotland, (ongoing), [Supporting the Third Sector Project](#).

young people relying on the effective provision of children's services in their community.

New legislation may also promote greater consistency across local authorities by presenting a new legal standard for cooperation between agencies involved in the strategic planning of children's services and many relevant adult services. Moreover, we also recognise the value in making a broader range of stakeholders responsible for the effective planning and delivery of children's services through their involvement in the Integration Joint Board.

We understand that Integration Joint Boards have a legal requirement to include a third sector representative, and while not a voting member, said third sector representative would hold some form of statutory responsibility to contribute to Children's Service Planning Partnerships through their role on the board. Currently there is only an obligation placed on Children's Services Planning Partnerships to consult and work with named 'other providers' in their authority area, of which third sector service providers are generally considered to be.

Potential risks of the proposed legislative changes

While the potential benefits of the legislative change centres on facilitating greater cooperation between agencies, legislation alone is unlikely to create change in practice. Facilitating more joined up working will require resource and funding to increase the required capacity for development. The funding outlined in the financial memorandum is unlikely to achieve this when shared between relevant agencies involved in the Children's Services Planning Partnerships across Scotland.

From our work with third sector partners through the Supporting the Third Sector project, we know that the structure of Children's Services Planning Partnerships can be complex and varies significantly across Scotland. Third sector partners delivering children's services have told us that they often feel shut out from the work of Children's Services Planning Partnerships, in part due to their structure that complicates the ways the third sector can engage with the partnership.

This legislation presents a real risk by further complicating an already complex picture, potentially further isolating third sector organisations from the service planning process. Our recent 'How good is our third sector participation in Children's Services Planning' learning report on locality support work highlighted methods to facilitate positive collaboration between planning partnership stakeholders without the involvement of Integration Joint

Boards.²⁵ The report demonstrates that improved collaboration is achievable when the correct support and resource is provided to organisations currently involved in planning processes.

While we know that IJBs are legally required to include representatives from certain sectors and professions, we understand that the specific services that IJBs provide strategic direction for varies across local authorities across Scotland. This is especially true in areas where health boards cover several different local authorities, e.g., NHS Lothian. This could mean that IJBs in some local authorities may not have hold strategic direction for adult services particularly relevant to transitions or broader children's services. In such cases, we question whether Integration Joint Boards involvement is bringing the additional expertise and accountability intended by the proposals and whether doing so is at risk of further excluding relevant organisations.

The inclusion of elected representatives as voting members on Integration Joint Boards means that there is an inherent increased risk of political decision making. While the roles and responsibilities of voting members to make decisions based on the available information and advice from non-voting members is implicit, we can't say with confidence that political motives do not influence outcomes. The Committee may find it worth considering whether this will add value to the decision-making processes of the Children Services Planning Partnerships or negatively affect a commitment to rights-based decision making.

Legislating only when necessary

We encourage the Committee to reflect on the Bill's guiding principles in its scrutiny and consider whether the stated aims of the proposals could be achieved without introducing new legislation. To support better cooperation, multi-agency working and joined-up delivery is a valuable focus for improvements the aim of keeping the promise to Scotland's care experienced children and young people. Children in Scotland is supportive of any efforts to improve cooperation between stakeholders to achieve this aim, however, we know that methods to promote collaboration other than legislation exist and can be effective.

Should the Bill progress to stage 3 in its current form, we ask the Scottish Government to commit the adequate resource and funding to ensure legislative changes are communicated and well understood by the range of stakeholders involved – not just those with a statutory responsibility. The development of further guidance, support and resource for greater

²⁵ Children in Scotland, Supporting the Third Sector, (2025), [How good is our third sector participation in Children's Services Planning: Learning report on 2024-25 locality support.](#)

collaboration and joined-up working would also provide flexibility to respond to diverse local circumstances in the make-up of Children's Services Planning Partnerships and Integration Joint Boards to deliver the best outcomes for service users.

Other

10. Are there any other comments you would like to make in relation to this Bill?

No further comments.

For more information, please contact Billy Anderson, Head of Services, Participation & Policy banderson@childreninscotland.org.uk