CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Children and Young People (Scotland) Bill introduced in the Scottish Parliament on 17 April 2013:
   - Explanatory Notes;
   - a Financial Memorandum;
   - a Scottish Government Statement on legislative competence; and
   - the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 27–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Scottish Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

Summary and background

4. The Bill makes provision in relation to aspects of children’s services reform to:

- Reflect in domestic law the role of the United Nations Convention on the Rights of the Child (UNCRC) in influencing the design and delivery of policies and services by placing duties on the Scottish Ministers and the wider public sector, and strengthening the powers of the Children’s Commissioner to enable investigations to be conducted in relation to individual children and young people;

- Improve the way services work to support children, young people and families by: ensuring there is a single planning approach for children who need additional support from services; creating a single point of contact around every child or young person; ensuring coordinated planning and delivery of services with a focus on outcomes, and providing a holistic and shared understanding of a child’s or young person’s wellbeing;

- Strengthen the role of early years support in children’s and families’ lives by increasing the amount and flexibility of free early learning and childcare from 475 hours a year to a minimum of 600 hours for 3 and 4 year olds, and 2 year olds who are, or have been at any time since turning 2, looked after or subject to a kinship care order;

- Ensure better permanence planning for looked after children by: extending corporate parenting across the public sector; extending support to young people leaving care for longer (up to and including the age of 25); supporting families and the parenting role of kinship carers through new legal entitlements; and putting Scotland’s National Adoption Register on a statutory footing; and

- Strengthen existing legislation that affects children and young people by creating a new right to appeal a local authority decision to place a child in secure accommodation, and by making procedural and technical changes in the areas of children’s hearings support arrangements and school closures.
COMMENTARY ON SECTIONS

Part 1 – Children’s Rights

Section 1 – Duty on Scottish Ministers in relation to the rights of children

5. Section 1 places duties on the Scottish Ministers in relation to the rights of children as set out in the UNCRC and its First and Second Optional Protocols.

6. Subsection (1)(a) places a duty on the Scottish Ministers to keep under consideration whether there are any steps which they could take to give better or further effect to the UNCRC requirements. In effect, this means a requirement on the Scottish Ministers to keep under review their approach to implementation of the UNCRC in the exercise of their functions. Subsection (1)(b) requires the Scottish Ministers to take steps which they believe to be appropriate in consequence of that consideration.

7. Subsection (2) places a duty on the Scottish Ministers to promote public awareness and understanding of the rights of children. The term “rights of children” has a different definition to the term “UNCRC requirements” for these purposes. An interpretation of both terms is included at section 4. This provision has the effect of incorporating Article 42 of the UNCRC into Scots law, introducing a new domestic requirement on the Scottish Ministers to raise awareness and understanding of the UNCRC amongst children, and those individuals working with children and members of the public. This could involve, for example, targeted work within schools, the development of information materials, the preparation of guidance for professionals and the provision of support to other organisations who have a role in promoting children’s rights in Scotland.

8. Subsection (3) requires the Scottish Ministers to lay a report before the Scottish Parliament every 3 years detailing the steps they have taken in that 3 year period to give better or further effect to the UNCRC requirements and to promote public awareness and understanding of the rights of children.

9. Subsection (4) defines what is meant by “3 year period”. This is the period of 3 years beginning with the day the section comes into force and each period of 3 years thereafter.

10. Subsection (5) requires the Scottish Ministers to publish the report they have laid before the Scottish Parliament as soon as practicable.

Section 2 – Duties of public authorities in relation to the UNCRC

11. Subsection (1) requires each identified public authority, as listed, or with a description listed, in schedule 1, to publish (in a way each authority thinks is appropriate) a report every 3 years setting out the steps it has taken in that 3 year period to give better or further effect within its areas of responsibility to the UNCRC requirements. The public authority may choose to satisfy the duty, through, for example, annual reports. The public authority can also satisfy the duty through development of a standalone report, should it choose.
12. Subsection (3) makes clear that two or more of the public authorities to whom the duty applies may satisfy the duty through preparation and publication of a joint report.

Part 2 – Commissioner for Children and Young People In Scotland

Section 5 – Investigations by the Commissioner

13. Section 7 of the Commissioner for Children and Young People (Scotland) Act 2003 (the 2003 Act) provides for the Commissioner to undertake an investigation into whether, by what means and to what extent, a service provider has regard to the rights, interests and views of children and young people in making decisions or taking actions that affect those children and young people. Any such investigation must focus on a matter of particular significance to children and young people generally or to particular groups of children and young people, but not to individual children.

14. Subsections (1) and (2) amend sections 7(1) and 7(2) of the 2003 Act in order to allow for the Commissioner to undertake two distinct types of investigation: a “general investigation” which is consistent with the Commissioner’s original investigatory power under section 7 of the 2003 Act; and an “individual investigation” focusing on the extent to which a service provider has had regard to the rights, views and interests of an individual child or young person. The term “service provider” is defined in the 2003 Act and means any person or organisation providing a service to children and young people. This includes the private, public and voluntary sector. Thus any individual who, or organisation or company which, provides services to children or young people can be investigated by the Commissioner. For example, organisations which give advice, provide guidance or provide goods could be investigated. The service in question does not need to be provided exclusively to children or young people. Parents carrying out their parental responsibilities are not service providers. However, the local authorities to whom parental responsibilities have been transferred are treated as service providers.

15. Section 7(2) of the 2003 Act as amended provides that the Commissioner can only carry out a general investigation if the evidence and information collected demonstrates that there is an issue that is significant for children and young people generally or specific groups of children and young people.

16. New section 7(2A) of the 2003 Act makes clear that the Commissioner may only undertake either a general or individual investigation if they are satisfied that it would not duplicate the work that is the function of another person. There are a number of bodies already tasked with considering complaints and responding to concerns raised by members of the public in Scotland including the Scottish Public Services Ombudsman, Social Care and Social Work Improvement Scotland (the Care Inspectorate) and the Equality and Human Rights Commission. Each has a particular function and where it is recognised that a complaint falls within the remit of one of these bodies or any other complaint handling body, the Commissioner should not pursue the matter.

17. Subsection (2)(b) removes section 7(3)(b) of the 2003 Act. This is the provision that currently prevents the Commissioner from undertaking investigations in relation to individual children.
18. Subsection 2(c) amends section 7 of the 2003 Act to provide for the Commissioner to resolve a matter which could properly form the basis of an individual investigation without the need for a formal investigation. Such a step might be taken by the Commissioner where it is felt that an issue can be addressed satisfactorily without having to exhaust the investigatory process.

19. Subsection (3)(a) replaces section 8(1)(b) of the 2003 Act, removing the requirement for the Commissioner to publish notice of any investigation and terms of reference. Instead, it simply requires the Commissioner to give notice of an investigation to those individuals who are likely to be affected by it. The change reflects the fact that it will not always be appropriate for details of a planned investigation to be made widely available, particularly where the investigation focuses on sensitive matters relating to an individual child. Subsections (3)(b) and (c) provide for individual investigations to be held in private whilst the presumption is that general investigations will be held in public unless the Commissioner is satisfied that there are grounds for taking evidence in private, as is currently provided for under section 8(2) of the 2003 Act.

20. Subsection (4)(a) amends section 11(1) of the 2003 Act, removing the need for all investigation reports to be laid before the Scottish Parliament. Instead, section 11(1) will require that the Commissioner prepares a report in relation to each investigation. In order to finalise the report, the Commissioner will share its content for consideration and comment with all those persons named within the report or identifiable from it. Should the report be amended as a consequence of this process, a revised version will be made available to all of the above persons.

21. Subsection (4)(c) adds new subsections to section 11 that require the Commissioner to lay before the Scottish Parliament any finalised report relating to a general investigation. The Commissioner will have the power, but not an obligation, to lay before the Scottish Parliament a report relating to an individual investigation.

Section 6 – Requirement to respond to Commissioner’s recommendations

22. Subsection (2) amends section 11 of the 2003 Act, providing the Commissioner with a power to require a response from a service provider to any recommendations made as part of a report linked to either a general investigation or an individual investigation and to identify a time by which that response must be received. Where a report includes a requirement to respond, a copy of the report must also be shared with the service provider on whom the requirement is made.

23. Subsection (3) sets out the arrangements for publishing a service provider’s response to any recommendations made by the Commissioner. It requires the Commissioner to publish any response made by a service provider in respect of recommendations following a general investigation unless the Commissioner considers publication to be inappropriate. The Commissioner may publish a response to recommendations following an individual investigation. Any published material should not, so far as reasonable and practicable, name or identify any child/children referred to in it.

24. Where a service provider fails to respond to a requirement, the Commissioner may take steps to publicise this failure.
Part 3 – Children’s Services Planning

Section 7 – Introductory

25. Subsections (1) and (2) are interpretation subsections for this Part.

26. Subsections (3) and (4) provide that the Scottish Ministers may, by order, specify the services which are to be included within or excluded from the definition of children’s services or related services for the purposes of this Part. They may also specify matters in relation to those services. Before making such an order the Scottish Ministers must consult with each relevant health board, local authority and where the service is provided by another service provider, that person.

27. Subsection (5) provides that the Scottish Ministers may, by order, modify the definition of “other service provider” in subsection (1) by adding a person, removing an entry or varying an entry.

28. This Part confers certain functions on “a local authority and each relevant health board”. Subsection (6) provides that those are joint functions (i.e. functions that are to be exercised by those persons together).

Section 8 – Requirement to prepare children’s services plan

29. Subsection (1) provides that each local authority and relevant health board must jointly prepare a children’s services plan for the area of the local authority, in respect of each 3 year period.

30. Subsection (2) defines “3 year period” as that beginning with such date after the coming into force of this section as the Scottish Ministers specify, by order, and each subsequent period of 3 years. It defines “children’s services plan” as a document setting out the plans of each local authority and relevant health board for the provision of children’s services and related services over that 3 year period.

Section 9 – Aims of children’s services plan

31. Subsections (1) and (2) provide that a children’s services plan should be prepared with a view to achieving the aims of providing children’s services in the area in a way which: best safeguards, supports or promotes the wellbeing of children; is most integrated from the point of view of the recipients; and constitutes the most efficient use of available resources. Most integrated would be where service providers co-operate with each other to ensure that service provision is planned and delivered in a way which best meets the needs of children and families. Also, related services in the area are to be provided in the way which safeguards, supports or promotes the wellbeing of children, so far as this is consistent with the objects and proper delivery of the service concerned.
Section 10 – Children’s services plan: process

32. Subsection (1) provides that in preparing a children’s services plan, the local authority and relevant health board must give the other service providers an effective opportunity to participate in or contribute to the preparation of the plan. The local authority and relevant health board must also consult with organisations falling within subsection (2) (which represent the interests of persons who use or are likely to use any children’s service or related service in the area; or provide a service in the area which, if it were provided by the local authority or health board, would be a children’s service or related service), such social landlords as appear to provide housing in the area of the local authority and other such persons as the Scottish Ministers may, by direction, specify. “Social landlords” has the meaning given by section 165 of the Housing (Scotland) Act 2010.

33. Subsection (4) provides that a direction under subsection (1)(b)(iii) may specify different persons for different local authority areas and be revised or revoked.

34. Subsections (5) and (6) require the other service providers to participate in, or contribute to, the preparation of the children’s services plan, and the bodies to be consulted within subsection (1)(b) are to meet any reasonable request of the local authority or health board in participating in, or contributing to, the preparation of the children’s services plan. Subsection (7) provides that, as soon as reasonably practicable, after the plan has been prepared, the persons who prepared it must submit it to the other service providers for agreement.

35. Subsection (8) provides that, as soon as is reasonably practicable, after a children’s services plan has been agreed, the persons who prepared it must submit it to the Scottish Ministers and publish it in a manner they consider appropriate, which could entail publication online or as a hard copy report.

Section 11 – Children’s services plan: review

36. Subsection (1) provides that local authorities and relevant health boards in an area must jointly keep the children’s services plan under review and as a consequence of that review may prepare a revised plan.

37. Subsection (2) means that where a revised plan has been prepared, the local authority and each relevant health board must keep it under review and may in consequence prepare a revised plan.

Section 12 – Implementation of children’s services plan

38. This section provides that the local authority, relevant health board, and each of the other service providers in an area must, so far as reasonably practicable, provide services in accordance with the children’s services plan for that area. This does not apply where the extent the person providing the service considers that doing so would adversely affect the wellbeing of a child.
Section 13 – Reporting on children’s services plan

39. Subsection (1) provides that as soon as is practicable at the end of each year, the local authority and relevant health board must publish, in a way they consider appropriate, a joint report on how the provision of children’s services and related services in that area during that period have been provided in accordance with the children’s services plan and the extent to which the aims, specified in section 9(2) have been achieved, and such outcomes in relation to the wellbeing of the children in the area as the Scottish Ministers may, by order, prescribe.

40. Subsection (2) defines “1 year period” as the period of a year beginning on the date on which the children’s services plan for the area has begun, in accordance with section 8(1), and each period of a year thereafter.

Section 14 – Assistance in relation to children’s services planning

41. Subsections (1) and (2) provide that any of the other service providers and persons mentioned in section 10(1)(b) must comply with any reasonable request made of them to provide the local authority or relevant health board with information, advice or assistance, for the purposes of carrying out their functions under this Part.

42. Subsection (3) states that subsection (1) does not apply where the person considers the provision of information, advice or assistance would be incompatible with any duties of that person or unduly prejudices the carrying out of any functions of the person.

Section 15 – Guidance in relation to children’s services planning

43. Subsections (1) to (4) state that local authorities and relevant health boards, and the other service providers, in each area must have regard to any guidance issued by the Scottish Ministers about how to carry out their planning, reviewing and reporting functions, and this guidance may be issued either generally or for specific purposes and for different local government areas.

44. Subsection (5) states that before guidance is issued or revised, the Scottish Ministers have to consult with the persons to whom the guidance relates.

Section 16 – Directions in relation to children’s services planning

45. Subsections (1) and (2) provide that local authorities, relevant health boards and the other service providers must comply with any direction issued by the Scottish Ministers about the carrying out of the functions conferred by this Part (other than that of implementation).

46. Subsections (3), (4) and (5) provide that directions may be issued generally or for particular purposes, and different directions may be issued to different persons or otherwise for different purposes. Before issuing, revising or revoking a direction, the Scottish Ministers must consult the person to whom it relates.
Section 17 – Children’s services plan: default powers of Scottish Ministers

47. Subsection (1) states that this section applies where the Scottish Ministers consider that local authorities and relevant health boards are either not carrying out one of their joint functions under this Part (other than that of implementation) or in carrying out such a function are not complying with guidance issued under section 15(1).

48. The Scottish Ministers may issue directions stating that the function is to be carried out in a particular way or that the function is to be carried out instead by such of the persons mentioned in subsection (3) as the Scottish Ministers consider appropriate.

49. Subsection (3) explains that persons referred to in the previous subsection are one or some of the persons whose function it is and other local authorities or health boards.

50. Subsection (4) states that a direction under subsection (2)(b) may include such provision as the Scottish Ministers consider appropriate as to the making by a local authority or relevant health board in an area, which is not to be carrying out the function, of payment to a person who is to carry out the function by virtue of the direction.

51. Subsection (5) states that before issuing, revising or revoking a direction under subsection (2) the Scottish Ministers must consult with the local authority or relevant health boards whose failure is to be, or is, the subject of the direction, and such other persons as they consider appropriate.

52. Subsection (6) provides that where the Scottish Ministers consider that a direction under subsection (2) has been or would be insufficient to achieve effective exercise of the function concerned they may, by order, constitute a joint board of the principal service providers in a local government area concerned to carry out the function.

53. Subsection (7) provides that subsection (6) may include provisions as to: the constitution and proceedings of the joint board; the membership of the joint board; the transfer to the joint board of any property, rights or liabilities of any of the services providers in the local government area; the transfer to the joint board of any staff of any of the service providers in the local government area; the supply of services or facilities by any of the service providers in the local government area to the joint board; direction by the Scottish Ministers of the carrying out by the joint board of any of its functions; and such other matters relating to its operation as the Scottish Ministers consider appropriate.

54. Subsection (8) provides that the joint board is to be a body corporate.

55. Subsection (9) provides that before making an order under subsection (6) the Scottish Ministers must consult the local authority and health board to whom it relates and such other persons as they consider appropriate.
Section 18 – Interpretation of Part 3

56. This is an interpretation section for this Part.

Part 4 – Provision of Named Persons

Section 19 – Named person service

57. Subsections (1) and (5) define “named person service” as meaning the service of making available an individual from within named person service providers who carry out the functions in order to promote, support or safeguard the wellbeing of the child or young person. They will do this through a number of activities, including: advising, informing or supporting the child or young person or their parent; helping them to access a service or support; or discussing or raising a matter about that child or young person with a service provider or relevant authority.

58. Subsections (2) and (3) provide that individuals can only be identified for the named person service if they are an employee of the service provider, or are either a person, or employee of a person, who carries out functions on behalf of the service provider. Individuals must also satisfy such requirements as to qualifications, training and experience as the Scottish Ministers may specify by order.

59. Subsection (4) provides that the named person function cannot be carried out by a parent of the child or young person.

60. Subsections (6) and (7) state that the named person functions are carried out on behalf of the service provider and the responsibility for carrying out the named person function lies with the service provider and not with the individual named person.

Section 20 – Named person service in relation to pre-school child

61. Subsections (1) and (2) provide that it is the duty of the health board to make arrangements to provide a named person for each pre-school child in its area and defines “pre-school child” as a child who has not started primary school either because they are not old enough or the education authority has allowed the child to delay starting at primary school.

62. Subsection (3) explains that for the purposes of this section, school age should be taken to be that determined by the relevant education authority by reference to the school commencement dates fixed by it. Attendance at primary school does not include attendance at a nursery class based in a school, and relevant education authority means that of the area where the child lives.

Section 21 – Named person service in relation to children not falling within section 20

63. Subsections (1), (2) and (3) state that an education authority must make arrangements to provide a named person service for each child living in its area unless: they are a pre-school child (as defined in section 20); they attend a school managed by a different local authority or attend a grant-aided school or independent school; or are kept in secure accommodation. The duty to provide a named person does not apply to a child if they are a member of any of the regular forces.
64. Subsection (4) provides that, during any period when a child is a pupil at a public school managed by a different authority from the one in which the child resides, then that local authority must make arrangements to provide the named person service for that child. Subsection (5) provides that at any time when the child attends a grant-aided school, independent school or is kept in secure accommodation, that establishment must provide the named person service for the child.

**Section 22 – Continuation of named person service in relation to certain young people**

65. This section provides that, where a young person attends a public school, the education authority must provide the named person service to that young person, and in any other case the directing authority of the establishment, as defined in section 30(1), concerned must provide the named person service. “Young person” is defined as anyone who has reached the age of 18 but still attends school or is kept in secure accommodation.

**Section 23 – Communication in relation to movement of children and young people**

66. This section provides that where a service provider no longer provides services to a child, that service provider must provide the new service provider, or the person it considers will be the new service provider, with information it holds that might be relevant in the exercise of any functions of the service provider under this Part, or the future exercise of the named person functions in relation to the child or young person, if it ought to be provided for that purpose and unless this information prejudices the conduct of a criminal investigation or the prosecution of an offence.

**Section 24 – Duty to communicate information about role of named persons**

67. Subsection (1) provides that each health board, education authority or directing authority must publish, in such a manner as it considers appropriate, information about: the named person service; the functions of the named person service; how the service exercises its functions; how to contact named persons in its area or establishment; how the body exercises its functions under this Part; and any other matters it feels appropriate.

68. Subsection (2) states that service providers must provide the child or young person for whom they are providing the named person, and their parents, with details of how to contact named persons in their area as soon as is reasonably practicable after they become the service provider for the child, and as soon as is reasonably practicable after there is any change in those arrangements.

**Section 25 – Duty to help named person**

69. This section provides that where it appears to a service provider that another relevant authority could, by doing something, help in the exercise of any of its functions as provider of a named person, the other relevant authority must comply with a request for help. This could entail the relevant authority providing assessments or analysis, chronologies of significant events or any other information which would assist the named person in assessing the overall needs of the child and determining how they can be met. This duty to comply with a request applies unless
the request is incompatible with any of its own duties or unduly prejudices the exercise of any of its functions. Schedule 2 contains a list of relevant authorities.

Section 26 – Information sharing

70. Subsections (1) and (2) provide that a service provider or relevant authority (as listed in schedule 2) must provide to the service provider in relation to a child or young person information which it holds if it considers that: it might be relevant to the exercise of the named person functions; it ought to be provided for that purpose; and its provision would not prejudice the conduct of any criminal investigation or the prosecution of any offence.

71. Subsections (3) and (4) provide that a service provider in relation to a child or young person must provide, to a service provider or relevant authority, any information which it holds that might be relevant to the exercise of any function of the service provider or relevant authority which affects or may affect the wellbeing of the child or young person. This applies where the service provider in relation to the child or young person considers that the information ought to be provided for that purpose and where its provision would not prejudice the conduct of any criminal investigation.

72. Subsections (5) and (6) provide that the service provider or relevant authority may provide to a service provider or relevant authority any information it holds which is necessary or expedient to help the service provider or relevant authority carry out its named person role.

73. Subsection (7) provides that references in this section to a service provider or relevant authority include any person carrying out a function on behalf of a service provider or relevant authority.

Section 27 – Disclosure of information

74. Subsection (1) gives a legal protection for those who provide information under Part 4 of the Act. However, a person providing information and relying on this protection will have to consider other potentially relevant rules of law because of the provisions of subsections (2) and (3).

75. Subsections (2) and (3) provide that the person who receives information (the recipient), if it was provided to the person in breach of a duty of confidentiality in accordance with subsection (1), is not then to provide that information to anyone else (a third party), if the person who provides them with the information informs the recipient of the breach of duty unless they are permitted or required to provide that same information to the third party by virtue of any enactment (including Part 4) or any rule of law.

Section 28 – Guidance in relation to named person service

76. Subsections (1), (2) and (3) provide that health boards, education authorities and directing authorities must have regard to any guidance issued by the Scottish Ministers about exercising functions under this Part. That guidance may be issued generally or for particular purposes and may be issued for different service providers, or otherwise, for different purposes.
77. Subsection (4) provides that before issuing or revising guidance, the Scottish Ministers must consult with any person to whom it will relate.

Section 29 – Directions in relation to named person service

78. This section provides that local authorities, health boards and directing authorities must comply with any direction issued by the Scottish Ministers about carrying out the functions conferred by this Part. These directions may be issued generally or for particular purposes, and different directions may be issued to different persons for different purposes. Before issuing, revising or revoking a direction, the Scottish Ministers must consult the persons to whom it relates.

Section 30 – Interpretation of Part 4

79. Subsection (1) explains the definition of phrases used in this Part. Subsection (2) confers upon the Scottish Ministers a power to modify schedule 2 which contains a list of relevant authorities.

Part 5 – Child’s Plan

Section 31 – Child’s plan: requirement

80. Subsections (1) to (4) provide that for this Part a child requires a child’s plan where the responsible authority considers that the child has a wellbeing need and that need is not capable of being met, or fully met, by taking action other than targeted intervention, and the need is capable of being met, at least to some extent, by that targeted intervention. A child has a wellbeing need if the child’s wellbeing is being, or is at risk of being, adversely affected by any matter. “Targeted intervention” means the provision of a service, by a health board or local authority or a grant aided or independent school, which aims to meet the needs of children whose needs cannot be met, or fully met, by the services which are generally provided to all children by that body.

81. Subsections (5) and (6) provide that in deciding whether a child requires a child’s plan, the responsible authority is, so far as reasonably practicable, to have regard to the views of the child (taking account of the child’s age and maturity) and their parent.

82. Subsections (7) and (8) provide that if a child already has a plan, or if the child is a member of any of the regular forces, then subsection (1) does not apply. Where a child already has a plan, section 37 would apply. “Regular forces” has the meaning given by section 374 of the Armed Forces Act 2006.

Section 32 – Content of a child’s plan

83. Subsection (1) provides that a child’s plan must include a statement of: the child’s wellbeing need; the targeted intervention which requires to be provided in relation to the child to address the wellbeing need; the relevant authority which is to provide the targeted intervention; how the intervention is to be provided; and the outcome which the intervention is intended to achieve.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

84. Subsection (2) provides that the Scottish Ministers may, by order, make provision as to any other information which is, or is not, to be contained in the child’s plan and the form of the plan.

Section 33 – Preparation of a child’s plan

85. Subsections (1), (2) and (3) state that where a child requires a child’s plan, the responsible authority should prepare the plan unless the responsible authority and a relevant authority agree that it would be more appropriate for the relevant authority to prepare the plan. The plan should always be prepared as soon as is reasonably practicable.

86. Subsections (4) and (5) provide that where a relevant authority declines to give its agreement to prepare a plan or provide a targeted intervention, the relevant authority must provide a statement of its reasons for declining.

87. Subsections (6) and (7) provide that in preparing a child’s plan, an authority is so far as reasonably practicable to ascertain and have regard to the views of the child (taking account of the child’s age and maturity) and the child’s parents.

88. The Scottish Ministers may, by order, make further provision as to the preparation of child’s plans (subsection (8)).

Section 34 – Responsible authority: general

89. Subsection (1)(a) provides that for the purposes of this Part the responsible authority for a pre-school child is the health board for the area where the child lives. Subsection (1)(b) provides that the responsible authority for a child who is not a pre-school child is the local authority for the area where the child lives. Subsection (2) provides that subsection (1) is subject to special cases outlined in section 35. Special cases are those not covered in section 34.

90. Subsection (3) defines “pre-school child” as a child who has not started primary school and, if the child is of school age, has not started school because the education authority has consented to this being delayed.

91. Subsection (4) provides that for the purposes of this section, the reference to school age is to be construed by reference to the school commencement dates fixed by the relevant education authority; the references to attendance at primary school do not include attendance at nursery classes based in a primary school; and the references to relevant education authority are to the education authority for the area where the child resides.

Section 35 – Responsible authority: special cases

92. Section 35 makes provision about who the responsible authority is in relation to special cases, which are cases where section 34 does not apply. Subsection (1) provides that where a pre-school child resides in the area of a health board, by virtue of a placement by another health board or local authority, the health board for the area in which the child resides immediately before that placement is the responsible authority in relation to the child. “Pre-school child” has the meaning given by section 34(3).
93. Subsection (2) provides that where the child is at a public school managed by a local authority other than the one for the area in which the child lives, that other authority is the responsible authority in relation to the child.

94. Subsection (3) provides that where the child is a pupil at a grant-aided or independent school, the directing authority of that school is the responsible authority in relation to that child.

95. Subsection (4) provides that subsection (3) does not apply where the child is such a pupil by virtue of placement by the local authority for the area in which the child permanently resides and the local authority is responsible for the provision of services.

96. Subsection (5) provides that the Scottish Ministers may, by order (subject to affirmative procedure), modify this section so as to make further or different provision as to the circumstances in which section 34(1) does not apply in relation to the child.

**Section 36 – Delivery of a child’s plan**

97. Subsection (1) provides that a person who is to provide a targeted intervention in terms of a child’s plan is to provide it, so far as reasonably practicable, in accordance with the plan. This does not apply where the responsible authority considers that to do so would adversely affect the wellbeing of the child (subsection (2)).

**Section 37 – Child’s plan: management**

98. Subsection (1) provides that the managing authority of a child’s plan must keep under review: whether the wellbeing need of the child stated in the plan is still accurate; whether the targeted intervention or manner of its provision is still appropriate; whether the outcome of the plan has been achieved; and whether the management of the plan should transfer to another authority. In reviewing a child’s plan, subsections (2) and (3) state that the managing authority is to consult each relevant authority which is providing a targeted intervention contained in the plan and the responsible authority (where that authority is neither the managing authority nor providing a targeted intervention) and must ascertain and have regard to the views of the child (taking account of the child’s age and maturity) and parent so far as is reasonably practicable.

99. In consequence of this review, the managing authority may, under subsection (4)(a) amend the plan so as to revise the wellbeing need of the child, the targeted intervention, or manner of the provision of the targeted intervention which requires to be provided, or the outcome which the plan is intended to achieve. The managing authority may also transfer the management of the plan to a relevant authority or end the plan (subsections (4)(b) and (c)).

100. Subsection (5) provides that the Scottish Ministers may make, by order, provision about: the management of the child’s plan, including when and how a child’s plan is to be reviewed in accordance with subsection (1); who is to be the managing authority of the plan; when and to whom the management of the plan is to or may be transferred under subsection (4)(b); when and how a new targeted intervention may be included in a child’s plan; and the keeping, disclosure and destruction of child’s plans.
101. Subsection (6) provides that the managing authority of a child’s plan is the authority which prepared it, or where the management of the plan has been transferred, the person to whom it was transferred. This is subject to any different provision made under subsection (5)(b).

**Section 38 – Assistance in relation to child’s plan**

102. Subsection (1) provides that a relevant authority must comply with any reasonable request made of it to provide a person exercising a function under this Part with information, advice and assistance.

103. Subsection (2) provides that subsection (1) does not apply where the authority considers that the provision of such information, advice or assistance would be incompatible with any of the duties of the authority, or unduly prejudices the exercise of any of the authority’s functions.

104. Subsection (3) provides that in providing information in pursuance of subsection (1) a person is not to be taken to be in breach of any prohibition or restriction on the disclosure of information.

105. Subsections (4) and (5) provide that a recipient of confidential information is not to provide the information to any other person unless the provision of information is permitted or required by virtue of any enactment (including this Part) or rule of law. This applies where, by virtue of subsection (3), a person provides information in breach of a duty of confidentiality and in providing the information, the person informs the recipient of the breach of duty.

**Section 39 – Guidance on child’s plans**

106. Subsection (1) provides that a person exercising a function under this Part (other than the function of complying with section 36) must have regard to any guidance issued by the Scottish Ministers about that matter.

107. Subsections (2) to (4) state that guidance may be issued generally or for specific purposes, different guidance may be issued to different persons or types of person, or otherwise for different purposes, and that before issuing any such guidance, the Scottish Minsters must consult with any person to whom it will relate.

**Section 40 – Directions in relation to child’s plans**

108. Subsections (1) and (2) provide that a local authority, health board or directing authority must comply with any direction issued by the Scottish Ministers about the carrying out of the functions conferred by this Part. Directions may be issued generally or for particular purposes, different directions may be issued to different persons or otherwise for different purposes and before issuing, revising or revoking a direction, the Scottish Ministers must consult the person to whom it relates.
Section 41– Interpretation of Part 5

109. This is an interpretation section for this Part. It defines “directing authority”. When used generally, this means the managers of each grant-aided school and the proprietor of each independent school. When used in relation to a grant-aided school, it means the managers of the school, and in relation to an independent school, it means the proprietor of the school.

Part 6 – Early Learning and Childcare

Section 42 – Early learning and childcare

110. Section 1(1) of the Education (Scotland) Act 1980 (the 1980 Act) imposes a duty on every education authority to secure that there is adequate and efficient provision of school education made for their area. Section 42 defines “early learning and childcare” as a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, with regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting. The phrase “of a kind which is suitable in the ordinary case for children who are under school age” is consistent with its use in the Education (Scotland) Act 1980. Guidance issued by the Scottish Ministers under section 34 of the Standards in Scotland’s Schools Act 2000 (the 2000 Act) (which is amended by paragraph 5 of schedule 4) will be used to provide more detail as to what those types of interactions and experiences will encapsulate.

Section 43 – Duty to secure provision of early learning and childcare

111. Subsection (1) provides that an education authority must, in pursuance of its duty under section 1(1) of the 1980 Act, secure that the mandatory amount of early learning and childcare (as defined in section 42) is made available for each eligible pre-school child belonging to its area. Section 23(3) of the 1980 Act provides that a pupil receiving school education is deemed to belong to the area where the pupil’s parent is ordinarily residing. This is subject to any regulations made by the Scottish Ministers.

112. Subsection (2) defines “eligible pre-school child”. It means a child who is under school age, has not started primary school and either falls within subsection (3) or is within such age range, or is of such other description, as the Scottish Ministers may by order specify.

113. Subsection (3) provides that a child is also an eligible pre-school child if the child is aged 2 or over, and is, or has been at any time since their 2\textsuperscript{nd} birthday, looked after by a local authority (“looked after” is defined in section 75(2)) or the subject of a kinship care order. Kinship care order is defined in subsection (5) as having the meaning given by section 65(1).

114. Section 75(3) provides that “school age” has the same meaning as it has in the 1980 Act. Section 31 of the 1980 Act defines a person as being of “school age” if they have attained the age of 5 but not 16 years. Section 31 is however qualified by section 32(3) of the 1980 Act which provides that a child who does not attain the age of 5 on a school commencement date (defined in section 32(1)) shall for the purposes of section 31 be deemed not to have attained that age until the school commencement date following his/her 5\textsuperscript{th} birthday.
115. An order under section 43(2)(c)(ii) is subject to negative resolution procedure. It is anticipated that any order made under that enabling power will include provision akin to that made in the Provision of School Education for Children under School Age (Prescribed Children)(Scotland) Order 2002 (SSI 2002/90) made under section (1A) of the 1980 Act (which order making power is to be removed from the 1980 Act by paragraph 2(2)(a) and (b) of schedule 4), so for example to set out that eligibility for early learning and childcare starts from the first term following the child’s 3rd birthday. Subsection (4) provides that an order under section 43(2)(c)(ii) may sub-delegate the function of determining the eligibility criteria to an education authority, so for example the order might provide that a child is an eligible pre-school child only if the education authority is satisfied as to any matter relating to the child which is specified in the order.

Section 44 – Mandatory amount of early learning and childcare

116. Subsection (1) defines the mandatory amount of early learning and childcare for the purposes of section 43(1) as 600 hours in each year for which a child is an eligible pre-school child and a pro rata amount for each part of a year for which a child is so eligible.

117. Subsection (2) provides that the Scottish Ministers may, by order, modify the mandatory amount of early learning and childcare in subsection (1) for eligible pre-school children so as to vary the amount of early learning and childcare which is to be made available. Under subsection (3) the order is capable of making different provision for different types of eligible pre-school children (for example different amounts for children of different ages). Such an order is subject to affirmative procedure by virtue of section 77(2).

Section 45 – Looked after 2 year olds: alternative arrangements to meet wellbeing needs

118. Section 45 enables an authority to make alternative provision of education and care in order to meet the wellbeing needs of children. Subsection (1) provides that where an authority’s duty under section 43(1) applies in relation to a child only by virtue of the child falling within section 43(3)(a)(that is any 2 year old who is, or has been at any time since turning 2, looked after until he or she becomes eligible under section 43(2)), and the authority, after assessing the child’s needs considers that making alternative arrangements in relation to the child’s education and care would better safeguard or promote the child’s wellbeing, then subsection (2) applies.

119. Subsection (2) provides that in relation to these children the authority need not comply with its duty under section 43(1) in relation to the child but must make alternative arrangements in relation to the child’s education and care as it considers appropriate for the purposes of safeguarding or promoting the child’s wellbeing. The power for the authority to make alternative arrangements by virtue of 45(1) and (2) continues to apply notwithstanding that the 2 year old child ceases to be looked after so as to ensure continuity in the education and care of the child. However, under subsection (3), alternative arrangements cannot continue to be made if a parent of the child objects to those alternative arrangements being made.

120. Subsection (4) provides that the authority may, at any time, review any alternative arrangements it makes in relation to a child in pursuance of subsection (2)(b) and must do so on becoming aware of any significant change in the child’s circumstances. It may, following such a review, alter those arrangements.
121. Subsection (5) provides that the authority must seek to ensure that a record of the outcome of any assessment of a child’s needs that it undertakes in pursuance of subsection (1)(b) and any alternative arrangements that it makes in relation to the child’s education and care in pursuance of subsection (2)(b) is included in any child’s plan which is prepared under Part 5.

Section 46 – Duty to consult and plan on delivery of early learning and childcare

122. Subsection (1)(a) provides that an education authority must consult such persons as appear to it to be representative of parents of children under school age in its area about how it should make early learning and childcare available. Subsection (1)(b) provides that the education authority must have regard to the views expressed in that consultation and having done so prepare and publish a plan for how it intends to make early learning and childcare available. Such consultation must be carried out every 2 years although subsection (2) enables the Scottish Ministers to vary the regularity of that consultation by order subject to negative resolution procedure. Guidance issued by the Scottish Ministers under section 34 of the 2000 Act (as amended by paragraph 5 of schedule 4) will be used to set out more detail about how it is expected the consultation will be carried out and in relation to the preparation of the requisite plans for how early learning and childcare will be delivered.

Section 47– Method of delivery of early learning and childcare

123. Subsection (1) provides that an education authority must ensure that it makes early learning and childcare available by way of sessions which are provided during at least 38 weeks of every calendar year, and which are at least 2.5 hours but no more than 8 hours in duration. This is the minimum framework for delivering early learning and childcare.

124. Subsection (2) provides that the Scottish Ministers may by order modify subsection (1) so as to vary the minimum framework for delivering early learning and childcare. Such an order is subject to affirmative procedure by virtue of section 77(2).

Section 48 – Flexibility in way in which early learning and childcare is made available

125. This section provides that in exercising functions under section 46 (duty to consult and plan on delivery of early learning and childcare) and section 47 (method of delivery of early learning and childcare), an education authority must have regard to the desirability of ensuring that the method by which it makes early learning and childcare available is flexible enough to allow parents an appropriate degree of choice when deciding how to access the services.

Section 49 – Interpretation of Part 6

126. This section is an interpretation section for this Part which explains that the expression “early learning and childcare” has the meaning given by section 42, “eligible pre-school child” has the meaning given by section 43(2) and “parent” has the meaning given by the 1980 Act. Other interpretation provisions relevant to this Part are contained in section 75.
**Part 7 – Corporate Parenting**

**Section 50 – Corporate parents**

127. This Part of the Bill gives effect to a concept of “corporate parenting”. This concept involves placing new duties on certain public bodies to act in particular ways in support of certain children and young people. The public bodies are called “corporate parents” and the duties are “corporate parenting responsibilities”.

128. Subsection (1) of this section provides that those people listed, or included with a description which is listed, in schedule 3 are “corporate parents”. Although the Scottish Ministers are listed, there is an exception for them in relation to certain of the duties (see subsection (3)). This is because of their special position in relation to some of the duties.

129. Subsection (2) provides that the Scottish Ministers can, by order, modify schedule 3 by adding a person or description of persons, removing an entry or changing an entry. Such an order is subject to affirmative procedure by virtue of section 77(2) (subordinate legislation).

130. Subsection (4) defines “corporate parenting responsibilities” as the duties conferred on corporate parents by section 52.

**Section 51 – Application of Part: children and young people**

131. The children in relation to whom corporate parenting responsibilities apply are set out in this section. They are children who are looked after by a local authority in accordance with section 17(6) of the 1995 Act and young people who are under 26 and were, at the time when they ceased to be of school age or at any subsequent time, but are no longer, looked after by a local authority.

**Section 52 – Corporate parenting responsibilities**

132. As noted above, this section sets out the corporate parenting responsibilities. It provides that it is the duty of every corporate parent (where consistent with their other functions): to be alert to matters which could adversely affect the wellbeing of children and young people to whom this Part applies; to assess the needs of those children and young people for support and services it provides; to promote the interests of those children and young people; to seek to provide those children and young people with opportunities to participate in activities designed to advance their wellbeing; to take such action as it considers appropriate to help those children and young people to access those opportunities and to make use of services, and access the support, which it provides; and to take any other action it considers appropriate to improve the way in which it carries out its functions in relation to those children and young people.

**Section 53 – Planning by corporate parents**

133. Subsection (1) provides that corporate parents must prepare a plan for how they propose exercising their corporate parenting responsibilities and must keep this plan under review.
134. Subsection (2) provides that before preparing or revising this plan, corporate parents must consult with other corporate parents and persons as they consider appropriate.

135. Subsection (3) provides that corporate parents must publish their plan, or revised plan, in such manner as they consider appropriate (and, in particular, that plans may be published together with, or as a part of, any other plan or document).

Section 54 – Collaborative working among corporate parents

136. Subsection (1) provides that corporate parents must collaborate with each other, in so far as is reasonably practicable, when undertaking their corporate parenting responsibilities or any other functions under this Part, where they consider that doing so would safeguard or promote the wellbeing of children or young people which this Part applies to.

137. Subsection (2) gives examples of what that collaboration may include, namely sharing information, providing advice or assistance, co-ordinating activities, sharing responsibility for action, funding activities jointly and exercising these functions jointly (for example, by publishing a joint plan or joint report).

Section 55 – Reports by corporate parents

138. Subsection (1) provides that a corporate parent must report on how it has exercised its corporate parenting responsibilities, planning and collaborating functions in pursuance of sections 53 and 54, and its other functions under this Part.

139. Subsection (2) states that these reports may, in particular, include information about standards of performance, and the outcomes achieved in pursuance of this Part.

140. Subsection (3) provides that reports are to be published in such manner as the corporate parent considers appropriate (and, in particular, that reports may be published together with, or as part of, any other report or document).

Section 56 – Duty to provide information to Scottish Ministers

141. Subsection (1) states that a corporate parent must provide the Scottish Ministers with such information they require about how it is: exercising its corporate parenting responsibilities; planning, collaborating or reporting in pursuance of sections 53, 54 or 55; or otherwise exercising functions under this Part.

142. Subsection (2) states that information which is required may include information about standards of performance, and the outcomes achieved in pursuance of this Part.

Section 57 – Guidance on corporate parenting

143. Subsection (1) provides that a corporate parent must have regard to any guidance about corporate parenting issued by the Scottish Ministers.
144. Subsection (2) states that guidance may include advice or information about how corporate parents should: exercise their corporate parenting responsibilities; promote awareness of their corporate parenting responsibilities; plan, collaborate or report in pursuance of sections 53, 54 and 55; and otherwise exercise their functions under this Part. Guidance may also include information about the outcomes which corporate parents should seek to achieve in exercising their functions.

145. Subsections (3), (4) and (5) state that guidance may be issued generally or for specific purposes and that different guidance may be issued for different corporate parents or for different purposes. Before issuing guidance the Scottish Ministers must consult with the corporate parents to which guidance relates and anyone else they consider appropriate.

Section 58 – Directions to corporate parents

146. Subsection (1) provides that corporate parents have to comply with any direction issued by the Scottish Ministers about their corporate parenting responsibilities, their planning or collaborating or reporting functions in pursuance of sections 53, 54 and 55 or their functions under this Part. Section 53 requires a corporate parent to prepare and review a plan for how it proposes to exercise its corporate parenting responsibilities. Section 54 requires corporate parents to work collaboratively when exercising their corporate parent responsibilities or other functions under this Part. Section 55 requires a corporate parent to report on how it has exercised its corporate parenting responsibilities, collaborating functions and its other functions under this Part.

147. Subsections (2) and (3) state that directions may be issued generally or for specific purposes and that directions may be issued to different corporate parents or otherwise for different purposes.

148. Subsection (4) provides that before issuing, revising, or revoking directions, Scottish Ministers must consult with any corporate parent to which the directions relate and such other persons as they consider appropriate.

Section 59 – Reports by Scottish Ministers

149. Subsection (1) provides that the Scottish Ministers must, as soon as practicable, after the end of each 3 year period, lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period.

150. Subsection (2) states that “3 year period” means the period of 3 years beginning with the day on which this section comes into force, and each subsequent 3 years.

Part 8 – Aftercare

Section 60 – Provision of aftercare to young people

151. Section 29 of the 1995 Act places certain duties on, and gives certain powers to, local authorities in relation to the provision of aftercare to young people that they at one stage looked after. Section 30 of the 1995 Act gives local authorities the power to provide financial assistance
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

to a similar category of young people for the purpose of meeting expenses connected with their education and training.

152. This section amends sections 29(2) and 30(2) of the 1995 Act to extend the age up to which formerly looked after young persons may access aftercare assistance under these provisions from 21 to 26 (subsections (2)(a)(i) and (3)(a)).

153. Subsection (2)(c) inserts new subsections (5A) and (5B) into section 29. New subsection (5A) provides that, after carrying out an assessment under section 29(5) in pursuance of an application made by a person under section 29(2), the local authority must, if satisfied that the person has eligible needs and that these cannot be met other than by taking action under this subsection, provide the person with such advice, guidance and assistance as it considers necessary for the purposes of meeting those needs. The local authority may otherwise provide such advice, guidance and assistance as it considers appropriate having regard to the person’s welfare. New subsection (5B) provides that a local authority can continue to provide advice, guidance and assistance after a person reaches the age of 26, but they are not required to do so.

154. Subsection (2)(e) inserts new subsections (8) and (9) into section 29 to provide that the Scottish Ministers may, by order, specify types of care, attention and support that constitute “eligible needs” for the purposes of new subsection (5A)(a).

Part 9 – Counselling Services

Section 61 – Provision of counselling services to parents and others

155. Subsection (1), (2) and (5) provide that a local authority must make arrangements to secure that counselling services as described by the Scottish Ministers, by order, are made available for those persons living in its area that are parents of eligible children or individuals with parental rights or responsibilities in relation to an eligible child. This includes an individual with any of those rights or, as the case may be, responsibilities.

156. Subsections (3) and (4) explain that an “eligible child” is a child who is of such descriptions as the Scottish Ministers may, by order, specify. Such an order may include provision which describes a child by reference to a matter about which the local authority must be satisfied in relation to the child and may, without prejudice to section 77(1)(a), make different provision in relation to different descriptions of counselling services specified under subsection (1) and in relation to different paragraphs of subsection (2).

Section 62 – Counselling services: further provision

157. Subsection (1) provides that the Scottish Ministers may make, by order, provision about: when or how counselling services specified in an order under section 61(1) are to be provided; when or how a local authority is to consider whether a child is eligible for the purpose of section 61(2); when or how a local authority is to review whether a child continues to be an eligible child; and such other matters about the provision of counselling services specified in an order under section 61(1) as the Scottish Ministers consider appropriate.
158. Subsection (2) provides that an order under subsection (1)(d) may include provision about circumstances in which counselling services specified in an order under section 61(1) may be provided subject to conditions (including conditions as to payment), and consequences of such conditions not being met.

Section 63 – Interpretation of Part 9

159. This is an interpretation section for this Part and explains that the terms parent, parental responsibilities and parental rights have the same meaning as they do in Part 1 of the 1995 Act.

Part 10 – Support for Kinship Care

Section 64 – Assistance in relation to kinship care orders

160. Subsection (1), (2) and (3) provide that local authorities must make arrangements to ensure that kinship care assistance, of such description as specified by the Scottish Ministers by order, is made available to those persons living in its area who are: a person applying for, or considering applying for, a kinship care order in relation to an eligible child; an eligible child who is subject of a kinship care order; a person in whose favour a kinship care order in relation to an eligible child subsists; and a child who is 16 years old where, immediately before the child reached 16 years old, the child fell within sub-paragraph (b) (i.e. was an eligible child who is subject to a kinship care order) and the child is an eligible child.

161. Subsection (4) provides that “eligible child” means a child that has been described by the Scottish Ministers by order. Subsection (5) provides that such an order may include provision which describes the child by reference to a matter about which the local authority must be satisfied in relation to that child, and may, without prejudice to section 77(1)(a) make different provision in relation to different descriptions of assistance specified under subsection (1) and different paragraphs of subsection (3).

Section 65 – Orders which are kinship care orders

162. Subsection (1) explains that for the purposes of this section a “kinship care order” is an order under section 11(1) of the 1995 Act which gives a qualifying person the right to have the child living with that person or to otherwise regulate the child’s residence; or a residence order which has the effect of the child living with or predominately living with a qualifying person. Subsection (2) provides that a “qualifying person” means a person related to a child, or a friend or acquaintance of someone related to a child or who has another relationship or connection with a child, as specified, by order, by the Scottish Ministers. An acquaintance is someone who is known slightly to the relative, where the relationship does not necessarily have the same depth or intimacy as a friendship, for example a neighbour. Subsection (3) provides that a “qualifying person” is not a parent or guardian for the purposes of subsection (1). In subsection (2) where it refers to a person who is related to a child subsection (4) provides that this includes someone married to a person who is related to the child or related to the child by half blood.
Section 66 – Kinship care assistance: further provision

163. Subsection (1) provides that the kinship care assistance which the Scottish Ministers may specify in an order under section 64(1) includes: counselling, advice or information about any matter; financial support (or support in kind) of any description; and any service provided by a local authority on a subsidised basis.

164. Subsection (2) provides that the assistance specified by such an order may include assistance which a person was entitled to from, or being provided with by, a local authority, immediately prior to a person becoming entitled to assistance under section 64(1).

165. Subsection (3) provides that the Scottish Ministers may, by order, make provision about: when or how assistance is to be provided; when or how a local authority is to consider whether a child is eligible for the purpose of section 64(3); when or how a local authority is to review whether a child continues to be an eligible child for the purpose of section 64(2); when or how a local authority is to review whether a child continues to be an eligible child for the purpose of section 64(3) and such other matters about the provision of kinship care assistance specified in an order under section 64(1) as the Scottish Ministers consider appropriate.

166. Subsection (4) provides that an order under subsection (3)(d) may include provision about circumstances in which a local authority may provide kinship care assistance specified in an order under section 64(2) subject to conditions (including conditions as to payment for the assistance or the repayment of financial support) and consequences of such conditions not being met (including the recovery of any financial support provided).

Section 67 – Interpretation of Part 10

167. This is an interpretation section for this Part.

Part 11 – Adoption Register

Section 68 – Scotland’s Adoption Register

168. This section amends the Adoption and Children (Scotland) Act 2007 by inserting sections 13A to 13F after section 13 of that Act.

Section 13A – Scotland’s Adoption Register

169. Subsection (1) provides that the Scottish Ministers must make arrangements for the establishment and maintenance of a register to be known as Scotland’s Adoption Register (“the Register”).

170. Subsection (2) provides that the Scottish Ministers may, by regulations, prescribe information which is or types of information which are, to be included in the Register. This may include information relating to: children who adoption agencies consider should be placed for adoption; persons considered by adoption agencies as suitable to have a child placed with them for adoption; matters relating to such children or persons which arise after information about them is included in the Register; or prospective adopters outwith Scotland. It provides that the
Scottish Ministers may, by regulations, provide for how information is to be retained in the Register and make such further provision in relation to the Register as they consider appropriate.

171. Subsection (3) provides that the Register is not to be open to public inspection or search. The information on the Register cannot be accessed or searched by anyone other than the Scottish Ministers, or the Registration organisation on behalf of the Scottish Ministers.

172. Subsection (4) provides that information is to be kept in the Register in any form the Scottish Ministers consider appropriate.

Section 13B – Registration organisation

173. Subsection (1) provides that arrangements made by the Scottish Ministers under the previous section may, in particular, authorise an organisation to perform the Scottish Ministers’ functions in respect of the Register (other than functions of making subordinate legislation), and provide for payments to be made to an organisation so authorised.

174. Subsection (2) provides that an organisation authorised in pursuance of subsection (1) must perform functions delegated to it in accordance with any directions (general or specific) given by the Scottish Ministers.

Section 13C – Supply of information for the Register

175. Subsection (1) provides that an adoption agency must provide the Scottish Ministers with such information as may be prescribed in regulations made under section 13A(2) about children who it considers ought to be placed for adoption or persons who were included in the Register as such children; and persons who it considers as suitable to have a child placed with them for adoption or persons who were included in the Register as such persons. Subsection (2) provides that an adoption agency is not to: disclose any information about a child of the type referred to in subsection (1)(a) (children suitable for adoption or persons who were included in the Register as such persons), without the consent of the child’s parent or any person who has parental responsibilities or parental rights in relation to the child, and any other person specified in regulations made under section 13A(2); any information about a person (other than a child) of the type referred to in subsection (1)(a), without the consent of that person (in other words a child that is now an adult); and any information about a person of the type referred to in subsection (1)(b) (persons suitable to have a child placed with them for adoption or persons who were included in the Register as such persons), without the consent of that person.

176. Subsection (3) provides that regulations made under section 13A(2) may: provide that information is to be provided to a registration organisation in pursuance of subsection (1) instead of to the Scottish Ministers; provide for how and by when that information is to be provided; prescribe a fee which is to be paid by an adoption agency when providing that information; and prescribe the form in which consent is to be given for the purposes of subsection (2).

Section 13D – Disclosure of information

177. Subsection (1) provides that it is an offence to disclose any information derived from the Register other than in accordance with the regulations under section 13A(2). Subsection (2)(a)
provides that the regulations under section 13A(2) may authorise the Scottish Ministers or a registration organisation to disclose information derived from the Register to an adoption agency for the purposes of helping it to find someone with whom it would be appropriate to place a child for whom the agency is acting, or to find a child who is appropriate for adoption by someone for whom the agency is acting. Subsection (2)(b) provides that the Scottish Ministers or registration organisation may also disclose this information: to any person (whether or not established or operating in Scotland) specified in the regulations, for any purpose connected with the performance of functions by the Scottish Ministers or a registration organisation in pursuance of this Chapter; for the purpose of enabling the information to be entered in a register which is maintained in respect of England, Wales or Northern Ireland and which contains information about children who are suitable for adoption; for the purpose of enabling or assisting that person to perform any functions which relate to adoption; for use for statistical or research purposes; and for any other purpose relating to adoption.

178. Subsection (3) provides that regulations made under section 13A(2) may set out terms and conditions on which information may be disclosed in pursuance of this section; specify steps to be taken by an adoption agency in respect of information received in pursuance of subsection (2); authorise an adoption agency to disclose information derived from the Register for purposes relating to adoption; and prescribe a fee which is to be paid to the Scottish Ministers or a registration organisation in respect of a disclosure of information made in pursuance of subsections (2), (4) or paragraph (c) of this subsection.

179. Subsection (4) provides that subsection (1) (the offence provision) does not apply to a disclosure of information by or with the authority of the Scottish Ministers.

180. Subsection (5) provides that a person who is guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale, or both.

Section 13E – Use of an organisation as agency for payments

181. Subsection (1) provides that Scottish Ministers may by regulations authorise a registration organisation or any other person to act as agent for the payment or receipt of sums payable by adoption agencies to other adoption agencies and may require adoption agencies to pay or receive such sums through the organisation.

182. Subsection (2) provides that a registration organisation or other person authorised under subsection (1) is to perform the functions exercisable under section 13E(1) in accordance with any directions given by the Scottish Ministers.

Section 13F - Supplementary

183. Section 13F provides that nothing authorised or required to be done by virtue of Chapter 1A constitutes an offence under section 72(2) or 75(1) of the Adoption and Children (Scotland) Act 2007. Section 72(2) of this Act provides it is an offence to make, agree to make, receive or attempt to obtain certain payments in relation the adoption of a child. Section 75(1) of the 2007 Act provides that it is an offence to make arrangements for or to place a child for adoption (this does not apply to adoption agencies).
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Part 12 – Other Reforms

Children’s hearings
Section 69 – Area support teams: establishment

184. Section 69 amends paragraphs 12 and 13 of schedule 1 of the Children’s Hearings (Scotland) Act 2011 (the 2011 Act). Schedule 1 of the 2011 Act makes further provision about the National Convener of Children’s Hearings Scotland (CHS) and about CHS itself – such as provision relating to appointment and functions, etc. Paragraph 12 of the schedule provides for the establishment and membership of area support teams (ASTs) which are to carry out for their areas, the selection of children’s hearing members and paragraph 13 applies when the National Convener first establishes an AST under paragraph 12 and is a transitional provision dealing with the transfer of members from a Children’s Panel Advisory Committee to an AST. Paragraph 14 makes provision for the functions of ASTs.

185. Section 69(2)(a) provides that the National Convener must keep the designation of areas under paragraph 12(1) under review and that the National Convener may revoke or make a new designation at any time. The National Convener will be required to ensure, when revoking or making new designations, that each local authority will fall within a designated area under paragraph 12(1). Where a designation is revoked, this will have the effect of dissolving the area support team that was established as a consequence of the designation. New paragraph 12(3C) requires the National Convener to consult with the affected local authority before revoking or making a designation. This means that the National Convener must ensure that when exercising the power to make and revoke designations of ASTs, there will always be an AST in relation to each local authority area and therefore that there will not be a time when a local authority no longer has an AST as a result of a revocation.

186. New paragraph 12(3D) provides that in sub-paragraph 3C “affected local authority” means, in the case of making a designation, the local authority whose area falls with the area proposed to be designated and, in the case of a revocation of a designation, each constituent local authority for the area support team established as a consequence of the designation.

187. On making or revoking a designation under paragraph 12(1) and 12(3B), the National Convener must notify each affected constituent local authority.

188. Section 69(2)(b) amends paragraph 13 of schedule 1 to the 2011 Act so that paragraph 13 applies where the National Convener establishes an area support team under paragraph 12(1) and where the area of the area support team consists of or includes a new area. Paragraph 13(2) requires the National Convener to notify each relevant Children’s Panel Advisory Committee member of the National Convener’s intention to transfer the member to the area support team.

189. Paragraph 13(b)(iv) amends paragraph 13(7) to provide that “new area” means an area which has never previously been the area (or part of the area) of an area support team.

190. Section 69(3) provides that an area support team established before this section comes into force continues in existence as if it were established under paragraph 12(1) as amended by this section.
Section 70 – Area support teams: administrative support by local authorities

191. This section amends paragraph 14 of schedule 1 to the 2011 Act to provide that each constituent local authority (of an area support team, as established by the National Convener in terms of schedule 1, paragraph 12 of the 2011 Act) must provide an area support team with such administrative support as the National Convener considers appropriate. “Administrative support” is defined as staff, property or other services which the National Convener considers are required to facilitate the carrying out by an area support team of its functions.

Detention of children in secure accommodation

Section 71 – Appeal against detention of child in secure accommodation

192. This section amends the Criminal Procedure (Scotland) Act 1995 (the CPSA) to insert a new provision, section 44A, which provides that a child or relevant person in relation to the child may appeal to the sheriff against a local authority decision to detain the child in secure accommodation following an order having been made to detain the child in residential accommodation under section 44 of the CPSA. New section 44A(2) provides that the sheriff may either confirm the decision to detain the child in secure accommodation or quash the decision and direct the local authority to move the child to residential accommodation which is not secure accommodation instead.

193. New section 44A(3) allows the Scottish Ministers by regulations to make further provisions about appeals. These regulations, which are subject to affirmative procedure, may specify the period within which appeals should be made, make provision about the hearing of evidence during an appeal and provide for appeals to the sheriff principal and Court of Session against the determination of an appeal.

194. “Relevant person” in relation to a child is defined as any person who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) of the 1995 Act in relation to the child); and, where the child is subject to a compulsory supervision order even if that order does not have any effect as a result of section 44(4) of the 1995 Act, any person who is deemed to be a relevant person in relation to the child by virtue of sections 81(3), 160(4)(b) or 164(6) of the 2011 Act.

195. This is to replicate the appeal rights under the 2011 Act. Section 151 of that Act sets out the ways in which secure accommodation authorisations are implemented where a children’s hearing makes a relevant order or warrant (including a compulsory supervision order) in relation to a child and section 162 of that Act provides for an appeal to the sheriff against a decision to implement a secure accommodation authorisation, including by one or more relevant persons in relation to a child. Section 81(4) of the 2011 Act provides that where the children’s hearing deems the individual to be a relevant person, they are to be treated as relevant persons for the purposes of Part 15 (which includes the appeal to the sheriff against secure accommodation authorisation implementation decisions) and section 81(3) provides that the children’s hearing must deem the individual to be a relevant person if it considers that the individual has or has recently had a significant involvement in the upbringing of the child.

196. Secure accommodation in this section has the meaning assigned to it in Part II of the 1995 Act.
**Schools consultation**

**Section 72 – Closure proposals: call-in by the Scottish Ministers**

197. Subsection (1) amends section 15 of the Schools (Consultation) (Scotland) Act 2010 to provide for an extension to the period during which the Scottish Ministers may issue a call-in notice to an education authority in relation to a decision taken by that education authority to implement a closure proposal, that is a proposal to permanently discontinue a school or discontinue all nursery classes in a school or a stage of education in a school. This period is extended from 6 weeks to 8 weeks.

198. Subsection (2) provides that this extension will apply to all school closure proposals in respect of which a decision to implement has been taken by an education authority from the date that subsection (1) is commenced.

**Wellbeing**

**Section 73 – Consideration of wellbeing in exercising certain functions**

199. This section inserts text after section 23 of the 1995 Act to create a new section 23A.

200. Subsection (1) of the new section 23A applies where a local authority is exercising a function under or by virtue of section 17 or 22 of the 1995 Act.

201. Subsection (2) provides that the local authority must have regard to the general principle that its functions in relation to children should be exercised in a way which is designed to promote, safeguard and support their wellbeing.

202. Subsection (3) provides that for the purposes of the previous subsection the local authority is to assess the wellbeing of a child by referring to the extent to which the wellbeing indicators in section 74(2) are or would be satisfied in relation to the child.

203. Subsection (4) provides that a local authority is to have regard to the guidance issued under section 74(3) of the Children and Young People (Scotland) Act 2013 when assessing the wellbeing of the child.

204. Subsection (5) defines “the 2013 Act” as the Children and Young People (Scotland) Act 2013.

**Part 13 - General**

**Section 74 – Assessment of wellbeing**

205. Subsection (1) applies where a person is to assess whether the wellbeing of a child or young person is being, or would be, promoted, safeguarded, supported, or adversely affected.

206. Subsection (2) provides that the person should assess the wellbeing of the child or young person by reference to the extent to which the child or young person would be safe, healthy, achieving, nurtured, active, respected, responsible and included.
207. Subsection (3) provides that the Scottish Ministers must issue guidance on how the wellbeing indicators listed in subsection (2) are to be used to assess the wellbeing of a child or young person.

208. Subsections (4) and (5) provide that the Scottish Ministers must consult with local authorities, health boards and any other persons they think appropriate before a person issues or revises guidance and that, in measuring the wellbeing of a child or young person, they must have regard to the guidance issued in subsection (3).

209. Subsections (6) and (7) provide that Scottish Ministers can, by order, modify the list of wellbeing indicators in subsection (2) and before making an order must consult with each local authority, health board and any other people they think are appropriate.

Section 76 – Modification of enactments

210. This section introduces schedule 4 which contains minor amendments to enactments and otherwise modifies enactments for the purposes of or in consequence of this Act.

Section 77 – Subordinate legislation

211. Subsection (1) provides that any power of the Scottish Ministers to make an order or regulations includes powers to make different provision for different purposes and such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider appropriate.

212. Subsection (2) states that an order made under the following sections is subject to the affirmative procedure – sections 3(2), 8(3), 17(6), 30(2), 35(5), 44(2), 47(2), 50(2), 74(6).

213. Subsection (3) provides that an order made under section 78 containing provisions which add to, replace or omit any part of the text of this or any other Act is subject to affirmative procedure.

214. Subsection (4) provides that other orders made under this Act, and any regulations made under this Act, are subject to negative procedure.

215. Subsection (5) provides that this section does not apply to an order made under section 79(2).

Section 78 – Ancillary Provision

216. This section allows the Scottish Ministers, by order, to make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, or in connection with or for the purposes of giving full effect to, any provision made by, or by virtue of, this Act. Such an order may also make such transitional, transitory or savings provision as the Scottish Ministers consider appropriate for the purposes of, or in connection with, the coming into force of any provision.
Section 79 – Commencement

217. This section provides for this Part (except for sections 74, 75 and 76) to come into force on the day after Royal Assent and for the other provisions of the Act to be commenced by order made by the Scottish Ministers. Such an order may include transitional, transitory or savings provision.

Section 80 – Short Title

218. This section states the short title of the Act as being the Children and Young People (Scotland) Act 2013.

Schedule 1 – Authorities to which section 2 applies

219. Schedule 1 lists the authorities to which the duty in section 2 of the Act (duties of public authorities in relation to the UNCRC) applies. Schedule 1 is introduced by section 3. The persons included in this schedule are those persons who it is considered are likely to, in the course of its function, engage directly with children and young people, and as such should be taking steps to secure better or further effect, within the area of its responsibility, the UNCRC requirements.

Schedule 2 – Relevant authorities

220. Schedule 2 lists relevant authorities for the purposes of Part 4 (named persons) of the Act and is introduced by section 30. The persons included in this schedule are those persons who it is considered are likely to, in the course of their function, engage directly with children, families and adults.

Schedule 3 – Corporate parents

221. Schedule 3 lists the persons who are “corporate parents” for the purposes of Part 7 (corporate parenting) of the Act and is introduced by section 50. The persons included in this schedule are those bodies which it is considered are likely to, in the course of exercising their functions, engage directly with looked after children.

Schedule 4 – Modification of enactments

222. Schedule 4 makes minor amendments to enactments and otherwise modifies enactments for the purposes of or in consequence of this Act. Schedule 4 is introduced by section 76.

223. Paragraph 1 amends the Social Work (Scotland) Act 1968 (the 1968 Act). Section 5(1) of the 1968 Act provides that local authorities shall perform their functions under certain enactments under the general guidance of the Scottish Ministers. Further, section 5(1A) enables the Scottish Ministers to issue directions to local authorities (either individually or collectively) as to the manner in which they are to exercise their functions under the enactments mentioned in subsection (1B); and a local authority is required to comply with any direction made.
224. Paragraph 1(2)(a)(i) and (ii) of schedule 4 amend section 5 of the 1968 Act so as to bring the early learning and childcare provisions and the kinship care order and counselling services provisions within the ambit of section 5(1) of the 1968 Act; the effect will be that local authorities must perform their functions in relation to early learning and child care in so far as they apply to children falling within section 43(3)(a) of the Act (that is looked after 2 year olds), and in relation to the provision of support to kinship carers and the provision of counselling services to those eligible to receive it under the general guidance of the Scottish Ministers. Paragraph 1(2)(b) amends section 5(1B) of the 1968 Act so as to include the provisions on early learning and childcare in so far as they relate to looked after 2 year olds within subsection (1B) of the 1968 Act; the effect being that the Scottish Ministers will be able to issue directions to local authorities as to the manner in which they exercise their functions in relation to early learning and childcare for looked after 2 year olds. Paragraph 1(2)(c) inserts a definition of looked after children into section 5 of the 1968 Act.

225. Paragraph 2 amends the Education (Scotland) Act 1980 (the 1980 Act) in consequence of the provisions on early learning and childcare in Part 6 of the Act. Paragraph 2(2)(a) amends section 1(1A) of the 1980 Act so as to provide that the duty to provide adequate and effective provision of school education conferred on education authorities under section 1(1) of the 1980 Act, in relation to children who are under school age, is to be exercisable only to the extent required by section 43(1). Under the current law, the duty to provide adequate and effective school education in relation to children who are under school age is exercisable only in respect of children described in an order made under subsection (1A) of section 1 of the 1980 Act.

226. Paragraph 2(2)(b) removes subsections (1B) and (4A) from section 1 of the 1980 Act; those provisions set out that an order made under subsection (1A) could set out the amount of school education which children described in the order are to be provided with (subsection (1B)) and that such an order was subject to negative procedure (subsection (4A)).

227. Section 1(5)(a)(i) of the 1980 Act defines school education in relation to pupils who are under school age. Paragraph 2(2)(c) of schedule 4 replaces that definition with the concept of early learning and childcare which has the meaning given in Part 6 of the Act (see the definition of "early learning and childcare" inserted into section 135 of the 1980 Act by paragraph 2(3)(a) of schedule 4).

228. Paragraph 2(3) amends section 135 of the 1980 Act which is an interpretation section. Paragraph 2(3)(a) inserts a definition of "early learning and childcare" which has the same meaning as in Part 6. Paragraph 2(3)(b) substitutes the definitions of "nursery school" and "nursery classes" and replaces the current definition (which gives them the same meaning in section 1(5)(a)(i) of the 1980 Act) with a definition which states that they are schools and classes which provide early learning and childcare.

229. Paragraph 3 amends the Children (Scotland) Act 1995 (the 1995 Act). Paragraph 3(2) repeals section 19 (local authority plans for services for children) of the 1995 Act in consequence of the provisions in Part 3 of the Bill relating to Children’s Services Planning. Paragraph 3(3) amends section 20 (publication of information about services for children) of the 1995 Act to substitute a new subsection (2) which defines “relevant services” for the purposes of that section which means services provided by a local authority under or by virtue of Part II of the 1995 Act,
the Children’s Hearings (Scotland) Act 2011 or any of the enactments mentioned in section 5(1B)(a) to (o) of the 1968 Act. A further connected amendment is made in paragraphs 4 and 7 of schedule 4 and is explained below.

230. Paragraph 3(4) amends section 44 of the 1995 Act to prevent a person publishing information which would identify a child, the child’s address or school only in respect of proceedings before a sheriff on an application for an exclusion order under section 76(1) of the 1995 Act. This is connected to the amendment made in paragraph 10 of schedule 4 which is explained below.

231. Paragraph 4 amends the Criminal Procedure (Scotland) Act 1995 so as to make a change to the definition of “relevant services” consequential on the repeal of section 19 of the Children (Scotland) Act 1995 by paragraph 3(2) of schedule 4 explained above.

232. Paragraph 5 amends the Standards in Scotland’s Schools Act 2000 (the 2000 Act) in consequence of the provisions on early learning and childcare in Part 6 of the Act. Section 34 of the 2000 Act contains a power for the Scottish Ministers to issue guidance to education authorities as respects the discharge of their functions under the 1980 Act and education authorities must in discharging those functions have regard to such guidance. Paragraph 4(a) and (b) of schedule 4 amend section 34 to enable guidance to be issued by the Scottish Ministers to local authorities about their functions in relation to the provision of early learning and childcare under Part 6 of the Act.

233. Paragraph 6 amends section 73(2)(a) of the Regulation of Care (Scotland) Act 2001 in consequence of the provision made at 60 of the Act relating to the provision of aftercare to young people. Section 73(2) is a power for the Scottish Ministers to make regulations to specify the manner in which assistance may be provided under subsections (1) and (2) of section 29 of the Children (Scotland) Act 1995. Section 73(2)(a) is amended so that this power may be exercised in relation to assistance provided under new subsections (5A) and (5B) which are inserted by section 60 of the Act.

234. Paragraph 7 amends the Mental Health (Care and Treatment) (Scotland) Act 2003 so as to make a change to the definition of “relevant services” consequential on the repeal of section 19 of the Children (Scotland) Act 1995 by paragraph 3(2) of schedule 4 explained above.

235. Paragraph 8 amends the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act) in consequence of the provisions on early learning and childcare in Part 6 of the Act. Paragraph 6(2), (3) and (4)(a) amends sections 1(3), 5(3)(a) and 29(1) of the 2004 Act respectively so as to replace the concept of "prescribed pre-school child" (as under current law such children are prescribed by an order under section 1(1A) and (1C) of the 1980 Act) with the concept of "eligible pre-school child" as defined in section 43(2) of the Act. Paragraph 8(4)(b) of schedule 4 removes the definition of "prescribed pre-school child" in consequence of the other amendments made by paragraph 8. It should be noted that an “eligible pre-school child” for the purposes of the early learning and childcare provisions in Part 6 of the Act will fall squarely within the definition of “pre-school child” in the 2000 Act and other enactments which refer to that concept.
236. Paragraph 9 amends the Adoption and Children (Scotland) Act 2007 to provide that any orders or regulations made under section 13A(2) or 13E(1) respectively, are not to be made unless a draft of the instrument has been laid before and approved by resolution of the Scottish Parliament (affirmative procedure instruments).

237. Paragraph 10 amends schedule 6 (Repeals) of the Children’s Hearings (Scotland) Act 2011 (the 2011 Act) to omit the repeal of section 44 of the Children (Scotland) Act 1995 (prohibition of publication of proceedings at children’s hearings) from the list of repealed provisions in that Act. Section 44, whilst broadly replaced by provision made at section 182 of the 2011 Act, requires to be retained in relation to proceedings for exclusion orders under section 76(1) of the 1995 Act. Paragraph 3(4) of schedule 4 makes amendments to section 44 of the 1995 Act to limit its effect in this regard.
FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Children and Young People (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 17 April 2013. It has been prepared by the Scottish Government to satisfy rule 9.3.2 of the Scottish Parliament’s Standing Orders. It does not form part of the Bill and it has not been endorsed by the Scottish Parliament.

OVERVIEW

2. The Memorandum summarises the cost implications of the Bill. The Bill’s intentions are to address the challenges faced by children and young people who experience poor outcomes throughout their lives by introducing various policies. The following table provides an overview of the provisions, cross referencing them with the Bill sections, and detailing where they can be found in the Financial Memorandum and the expected commencement date.

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These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

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<td>on how they are improving outcomes for children and young people</td>
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<td>which in practical terms will be delivered through their contributions to Additional Support Teams’ support to the children’s panel, and, relieving the National Convenor of the obligation to obtain the consent of each constituent authority before establishing (or re-establishing) Area Support Teams (AST’s)</td>
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**Methodology**

3. The analysis and estimates contained in this Memorandum draw on a variety of sources including:

- Consultation responses to the Bill proposals\(^2\) and the draft Business Regulatory Impact Assessment (BRIA)\(^3\); and

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\(^2\) Scottish Government, *Non-confidential responses to the Children and Young People Bill (2012)*

Discussions with partners and stakeholders for whom there may be financial implications, or who may be affected as a result of the Bill including: the Convention of Scottish Local Authorities (COSLA); individual local authorities; Community Planning Partnerships (CPPs); health boards; special health boards; the Association of Directors of Education (ADES); the Association of Directors of Social Work (ADSW); Scotland’s Commissioner for Children and Young People; partner providers of early learning and childcare; independent schools; and the third sector.

4. It is noted at several points in the document that there have been methodological challenges in estimating the costs of some provisions, particularly with respect to the duties relating to the Named Person, the Child’s Plan, throughcare and aftercare, kinship carers and counselling services. These challenges in large part relate to estimating how the preventative approach set out here will result in future avoided costs, which in several cases, depends on forward projections of current costs in the absence of the provisions. The approach taken has been to estimate median costs, and assumes that there will be margins of uncertainty around some of the costs cited. However, where the assumptions used in the methodology result in significant margins, the margins have been set out in the calculations (specifically, with regards to the duties relating to kinship carers and counselling services).

5. This document should be read in conjunction with the Policy Memorandum, which sets out more fully the reasoning behind the Bill, and the BRIA, which sets out any possible implications on private organisations.

**Timescales**

6. If the Bill is passed then it is expected that the following commencement dates will apply:

**2014:**
- Duties relating to early learning and childcare;
- Placing Scotland’s National Adoption Register on a statutory footing;
- Amendment to the Schools (Consultation) (Scotland) Act 2010; and
- Provisions relating to the Children’s Hearings system.

**2015:**
- Duties on the Scottish Ministers relating to the UNCRC;
- Duty on public bodies to report on the steps that they have taken to further children’s rights;
- Duties to provide additional support to kinship carers through the kinship care order;
- Provisions relating to providing families with children access to appropriate intensive family therapy;
- Duties relating to throughcare and aftercare; and
- Duties relating to corporate parenting.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

2016:
- Duties relating to GIRFEC; and
- Extending the power of Scotland’s Commissioner for Children and Young People.

Summary of Estimated Financial Costs

Table 2: Summary of Costs (£):

<table>
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Table 3: Costs on the Scottish Administration (£)

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Table 4: Costs on local authorities (£)

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<td>Total</td>
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<td>89,929,616</td>
<td>97,973,022</td>
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</table>
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 5: Costs on the NHS (£)

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<thead>
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<td>GIRFEC</td>
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<tr>
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<td>16,315,681</td>
<td>13,056,680</td>
<td>11,414,442</td>
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Table 6: Costs on other bodies, individuals and businesses (£)

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<tr>
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<td>236,349</td>
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</tr>
</tbody>
</table>

Why a Preventative Approach?

7. The Children and Young People (Scotland) Bill is founded on the key principles of early intervention and prevention, an approach to which the Scottish Government is committed, that is designed to deliver better outcomes for the people of Scotland, more efficient use of public services and sustainable economic growth. Evidence shows that effective early intervention and prevention can help break recurring cycles of poor social outcomes, and prevent expensive responses from public services at a later stage.

8. Several longitudinal studies provide evidence that returns from early investment in children during the pre-birth period and up to the age of 8 are high, but reduce the later the investment is initiated. This is not to suggest that later interventions are ineffective, only that intervening

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4 Heckman, J., The Case for Investing in Disadvantaged Young Children (2009)
earlier is usually better. For example, there is clear evidence concerning the benefits of securing early and permanent placement of children who are unable to live with their birth parents.\(^5\)

9. In the longer term, failure to effectively intervene to address the complex needs of an individual in early childhood can result in a nine fold increase in direct public costs, when compared with an individual who accesses only universal services. A package of effective early years interventions designed to reduce the frequency and type of service demanded by those individuals experiencing severe problems through their lives could have a significant impact on the outcomes for those individuals, and result in a reduction in the level of cost to the public sector. For example, a 10% reduction in the total cost to the public sector supporting an individual with severe problems could result in a potential avoided cost of approximately £94,000 per individual over time.\(^6\)

10. There is evidence that children and young people with complex needs and multiple contacts with public services often receive several interventions that are uncoordinated and may not meet their individual needs in a personalised and targeted way.\(^7\) Not only does such uncoordinated intervention drain scarce public resources but it also detracts from the effectiveness of interventions overall.\(^8\) By creating services that offer a more proportionate response to issues that affect children, children would receive better tailored interventions resulting in better outcomes, while avoiding duplication. This in turn would lead to efficiency savings in both time and resource.

11. Changes introduced in the Bill are part of an overall package of targeted interventions to achieve the impact described above. It is not always possible to estimate the contribution of individual measures to this wider impact. Where possible, the avoided costs resulting from specific measures have been estimated in the sections below.

**RIGHTS OF CHILDREN AND YOUNG PEOPLE**

12. The following estimates were arrived at following consultation with a number of stakeholders and interested parties including: Scotland’s Commissioner for Children and Young People; the Scottish Parliament Corporate Body; the Scottish Public Services Ombudsman; and the Children’s Commissioner for Wales.

13. The costs for these provisions primarily relate to:

- Development and delivery of policy initiatives by the Scottish Ministers to further, and raise awareness and understanding of the UNCRC;
- Preparation and publication of periodic ministerial reports focusing on UNCRC implementation;

These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

- Preparation and publication of periodic reports by other relevant public bodies focussing on UNCRC implementation; and
- Operational costs for the office of the Commissioner for Children and Young People in Scotland.

Section 1 – Duty on the Scottish Ministers to keep under consideration and take appropriate steps to further the UNCRC; to promote and raise awareness and understanding of the UNCRC and to report on implementation of the UNCRC.

14. The Bill will place a new duty on the Scottish Ministers to keep under consideration their approach to UNCRC implementation and to take steps which they consider to be appropriate in order to further the rights set out in the UNCRC; to promote public awareness and understanding of the UNCRC and to publish reports every 3 years which outline the steps that they have taken to further children’s and young people’s rights under the UNCRC.

Costs on the Scottish Administration

15. Implementation of the UNCRC is an international obligation which must be satisfied by the Scottish Ministers. Because Ministers currently satisfy this obligation, the ‘duty to take appropriate steps’ would not result in substantial additional costs. The Scottish Government already takes forward a wide range of activity to implement the UNCRC and we expect that similar actions will need to be taken forward in future in order to ensure that Ministers continue to satisfy both their international obligations and the new duties being proposed through the Bill. There is no evidence to suggest a need for increased spend beyond what is currently being committed in order to implement the UNCRC. Instead, as the focus of our activity changes, we will change the way that resources are targeted.

16. The key costs are linked to other provisions described below as well as guidance. The Scottish Government intends to develop guidance to support Ministers in the continued implementation of the UNCRC as well as the proposed duty to ‘keep under consideration and take appropriate steps’. The guidance will not require entirely new processes to be established within Government. One off costs associated with developing and disseminating the guidance are expected to be approximately £25,000. This estimate is based on experience of developing previous guidance linked to public sector equality duties. Costs primarily reflect the allocation of staff resource required to develop the guidance.

17. The Bill provides for individuals to test how the Scottish Ministers have implemented the UNCRC through the domestic courts in a way not currently possible. However, given the significant progress that has already been made around implementation, we anticipate challenges of this nature being rare. Accordingly, we would expect any costs associated with judicial action to be marginal, for which there is a contingency. The Scottish Legal Aid Board spent £6,500 in 2011-12 on average on a judicial review.

18. In relation to the new duty on Ministers to promote awareness and understanding, it is estimated that this will not carry any additional costs. This is because Article 42 of the UNCRC already requires Ministers to make the principles and provisions of the UNCRC widely known to both adults and children.
19. In relation to the duty to produce reports: the Scottish Ministers are already committed to the
development and implementation of periodic action plans focussing on the Scottish
Government’s approach to implementation of the UNCRC. In addition, in 2012 the Scottish
Ministers committed themselves to the future development of interim reports which detail
progress made since the publication of the last action plan. The new duty will ensure this
commitment is fulfilled moving forward.

20. Based on the preparation of a report similar in size and scope to the UNCRC progress report
published by the Scottish Ministers in May 2012,\(^9\) and the consultation activity undertaken with
children and young people for the Bill, it is expected that the following costs might reasonably
be incurred every 3 years when developing a report to satisfy this duty:

- Staffing costs of approximately £8,000;
- Engagement with children and young people at a cost of approximately £20,000; and
- Publication costs of approximately £4,500.

This amounts to an approximate cost of £32,500 every 3 years

*Costs on local authorities, other bodies, individuals and businesses.*

21. The duty will apply solely to the Scottish Government, therefore, there will be no cost to
others.

**Section 2 – Duty on public bodies to report on steps taken to further the UNCRC**

22. A duty will be placed on public bodies (as listed in schedule 1) to report every 3 years on the
steps that they have taken to further children and young people’s rights.

*Costs on the Scottish Administration*

23. As this is a duty on the wider public sector, there will be no cost to the Scottish
Administration. Guidance will be prepared to support bodies in satisfying the duty. However,
marginal financial resources will be required to take that work forward.

*Costs on local authorities, other bodies, individuals and businesses.*

24. It is not expected that the public bodies upon whom the duty will be placed will need to
establish structures similar to those proposed in respect of the Ministerial reporting duty. Costs
are, therefore, not expected to be as high. Those public bodies on which this duty falls should be
able to utilise their current reporting process in order to satisfy this duty (such as Children’s
Services Integrated Plans and annual reports), and a level of flexibility in the reporting process
will be encouraged. This should minimise costs as it is expected that organisations will routinely
allocate resources to support those reporting processes.

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25. Furthermore, where a public body has a narrow remit, this may limit the extent to which they will report on UNCRC implementation. The less significant the impact of their work on UNCRC implementation, the less onerous and less costly the reporting process will be.

26. Given the level of flexibility to be encouraged, any additional costs likely to fall on public bodies as a consequence of the Bill will be marginal.

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE IN SCOTLAND

Sections 5 - 6 – Extension of the power of the Commissioner for Children and Young People in Scotland

27. The Bill seeks to extend the powers currently available to the Commissioner for Children and Young People in Scotland under the Commissioner for Children and Young People (Scotland) Act 2003. That legislation provides for the Commissioner to undertake investigations focussing on the extent to which service providers have had regard to the rights, views and interests of groups of children and young people, or children and young people in general. This Bill seeks to extend this power in order that the Commissioner may undertake similar investigations in relation to individual children.

28. In reaching a conclusion on the financial implications for these proposals, the Scottish Government has consulted with organisations including: the Commissioner for Children and Young People in Scotland; the Children’s Commissioner for Wales; the Scottish Public Services Ombudsman; and the Scottish Parliament Corporate Body.

Costs on the Scottish Administration

29. As the Commissioner for Children and Young People in Scotland is a Parliamentary appointment, all costs associated with the proposed extension of powers will fall to the Scottish Parliament Corporate Body, and there will be no cost to the Scottish Administration.

Costs on the Children’s Commissioner

30. Whilst the Commissioner may require a service provider to participate in an investigation, the anticipated low volume of any such investigations suggests that costs will be marginal. To date, the Commissioner has not undertaken any investigation in line with his current powers under section 7 of the Commissioner for Children and Young People (Scotland) Act 2003; therefore, the following figures should be considered speculative.

31. Under the extended powers, it is expected that the Commissioner will undertake between 1 and 4 investigations per year. This estimate has been reached following discussion with other key complaints handling bodies in Scotland, including: the Scottish Public Services Ombudsman; the Care Inspectorate; and the Equalities and Human Rights Commission. Those discussions have indicated the existence of robust processes for handling complaints in a wide range of circumstances. That being said, all of the bodies agreed that there may be limited instances where an investigation by the Commissioner would be beneficial in order to address concerns on the part of an individual child or young person, particularly from a rights perspective. The estimate is also reflective of the fact that both the Children’s Commissioner for
Wales and the Northern Ireland Commissioner for Children and Young People have undertaken very few investigations of this nature, having had similar powers extended to them previously.

32. Following discussions with Scottish Parliamentary officials with responsibility for office holder services, we have concluded that the Commissioner will require:
   - 3 additional full time equivalent (FTE) members of staff as a consequence of the changes proposed, including: a Head of Casework and Legal; an Investigator; and a Casework Support Officer;
   - One-off costs associated with the appointment of additional staff (e.g. advertisement);
   - Training costs and travel expenses;
   - Accommodation costs, calculated on a pro-rata basis from the Commissioner’s existing accommodation costs; and
   - Provision of expert advice to support delivery of investigations.

33. There are no IT costs associated with the extension of powers. The Commissioner currently deals with between 350 and 425 enquiries per year. The number of enquiries may increase as a consequence of the extension of the Commissioner’s powers, but the majority of those enquiries should be dealt with in line with current practice and existing IT systems. Only very few enquiries will lead to an individual investigation. Accordingly, we do not believe that a dedicated additional IT solution will be necessary in order to effectively manage those cases.

Costs on local authorities, other bodies, individuals and businesses.

34. There will be no costs on other bodies, individuals or businesses.

Table 7: Summary of costs for Commissioner for Children and Young People in Scotland (£)

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<td>162,109</td>
<td>162,109</td>
<td>162,109</td>
</tr>
</tbody>
</table>

* The costs for 2015-16 have the following additional assumptions: start-up costs (which have been included under staff costs as they largely relate to recruitment); a half year of staff, travel and accommodation costs; and no expert advice required as the duty will not have commenced.

PLANNING AND DELIVERY OF SERVICES

Sections 7 – 18 – Duties on planning and delivering services and reporting on wellbeing indicators

35. There will be a duty on local authorities and health boards to cooperate with other public bodies to jointly plan and deliver services for children and young people, with a focus on wellbeing, and to report on outcomes and wellbeing indicators.
Costs on the Scottish Administration

36. As this will be a duty for the wider public sector, there will be no additional cost to the Scottish Administration.

Costs on local authorities, other bodies, individuals and businesses.

37. Local authorities already have a statutory obligation to produce integrated children’s services plans. It is expected that health boards and other public sector partners will work through the existing structures that they have with the local authorities to deliver this duty. It is understood that organisations routinely allocate resources to support existing processes, therefore, there will be no additional cost.

38. Those public bodies on which the duty to report falls should be able to utilise current reporting processes in order to satisfy this duty (such as Single Outcome Agreement Annual Reports), and a level of flexibility in the reporting process will be encouraged. This should minimise costs as it is expected organisations routinely allocate resources to support existing reporting processes.

39. Given the level of flexibility to be encouraged, any additional costs likely to fall on public bodies as a consequence of the Bill will be marginal.

GETTING IT RIGHT FOR EVERY CHILD (GIRFEC)

40. The Scottish Government and COSLA are committed to the GIRFEC approach and for several years have been promoting the development and subsequent implementation of GIRFEC by CPPs across Scotland. By March 2013, the Scottish Government will have spent £7,878,919 since 2008 working with GIRFEC Pathfinders and Learning Partners to develop GIRFEC (including the development of the concept of the Child’s Plan and Named Person).

41. Different parts of Scotland are at different stages in fully embedding the GIRFEC approach, and unfortunately none have established a cost analysis or benefit realisation model which could inform this Memorandum. It is difficult to create a definitive costing for implementation of the duties set out in the Bill and a margin of error is anticipated. The Scottish Government has consulted widely with numerous stakeholders, including: the GIRFEC Pathfinder in Highland and Learning Partners; COSLA; health boards; ADES; and ADSW. The following costs have been calculated to reflect the financial implications of GIRFEC implementation from a base rate of zero (i.e. where no GIRFEC implementation has been undertaken).

42. GIRFEC costs primarily relate to:

- Replacement of staff training on the Named Person and Child’s Plan duties;
- Additional time from staff required to fulfil the duties of the Named Person and the Child’s Plan; and
- Additional administrative support required.
Sections 19 – 41 – Duties relating to the Named Person and Child’s Plan

43. These sections place a duty on a set of public bodies set out in the Bill to provide a Named Person for every child in Scotland from birth until they leave school, and provide a Child’s Plan where appropriate.

Costs on the Scottish Administration

44. There will be no additional cost to the Scottish Administration as the duties are being placed on local authorities, health boards and other organisations.

Costs on local authorities

45. Local authorities will be responsible for the duties associated for the Named Person and Child’s Plan for those children and young people from the age of 5 until they leave school who are educated within state schools or who are school leavers. Each local authority is at a different stage of implementation, so the cost to each will be dependent on what stage they are at. The following costs have been determined at a national level.

Training

46. For staff delivering the Named Person role, for those who will have significant contact with the Named Person or will be primarily involved with the Child’s Plan, it is expected that there will be a requirement for initial training on a multi-agency basis for 2 days. The expectation is that training will be delivered in house by the public body with materials already developed by the Scottish Government (in collaboration with stakeholders). Therefore, it is assumed that there would not be a cost associated with developing and delivering the training. These assumptions have been confirmed in discussion with a sample of stakeholders.

47. There will, however, be a cost associated with replacing staff for training days, where that is necessary, and this will vary depending on the level of teacher involved. The following table sets out the estimate. It does not separate out the estimates for primary, secondary and special schools. The backfill assumptions are based on: the level of likely teaching commitment for different staff (0% for head teachers, 10% for depute heads and 30% for principal teachers); and an estimated £31.56 per hour for 7 hours of training per day. These assumptions have been derived from discussion with a sample of stakeholders.

Table 8: Backfilling for training of local authority staff

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<th>Number to be backfilled</th>
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<td>Principal</td>
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<tr>
<td><strong>Total for 2 days training</strong></td>
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</tr>
</tbody>
</table>

48. It is expected that training will not be a ‘one-off’ event but going forward this training will then form part of standard Continued Professional Development, and be absorbed as part of the
on-going training requirements on these organisations. Discussions with stakeholders suggest that it has been mainstreamed already in many parts of educational training.

49. Training and preparation costs may require some activity ahead of commencement, depending on the planning in each area, but for the purposes of these calculations, it is assumed that the cost is applied in 2015-2016.

50. Comprehensive national guidance is to be produced ahead of commencement. While local guidance may be developed, the national guidance should mitigate any costs. This work is already underway and costed as part of current activity.

Staff costs

51. In addition to the costs of preparing for the duties, there will be costs in carrying out these duties as part of a system change. These principally relate to directly carrying out the Named Person role (and the duties relating to the Child’s Plan) and the administrative support required. There may be a need for additional management or non-class contact time to deliver the Named Person role, and this could take the form of additional teaching hours. The table below is based on the following assumptions, derived from discussion with a sample of stakeholders.

- It is not assumed that the Named Person role would lead to additional costs with respect to all children and young people in local authority education, but only those who require additional planning from local authority services.

- This latter group is estimated to equate to 10% of the children and young people school population. This reflects the experience of those areas where the Named Person role has already been operated.

- No distinction has been made between different ages in this assumption: while there will be differences in demand across the age ranges, no evidence was forthcoming to suggest that there is a consistent concentration of activity at particular ages. As education staff are already currently planning for those children who need additional support, the additional costs are associated with the transition period when the Named Person will require more time to become familiar with and use the new system of planning.

- It is assumed that the additional help required across the system for this cohort would amount to an average of approximately 3.5 hours in the first year of implementation. Again, this reflects the experience of existing GIRFEC operation.

- We have taken the salary of a grade 6 teacher as the basis for estimating salary costs.
Table 9: Estimated cost of additional teacher hours for local authorities

<table>
<thead>
<tr>
<th>Population of children 5-18 in local authority schools (GROS, 2011)</th>
<th>Children requiring extra help (%)</th>
<th>Additional hours estimated for each requiring additional help in the first year</th>
<th>Total additional hours for children requiring extra help in the first year</th>
<th>Total additional cost in teacher staffing time in the first year (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>707,468</td>
<td>10</td>
<td>3.5</td>
<td>247,613</td>
<td>7,814,691</td>
</tr>
</tbody>
</table>

52. It is not anticipated that these will be recurring costs once the system change has bedded in after 1 year. The experience of GIRFEC in those areas most advanced in its implementation suggests that the system change accommodates the additional hours with efficiency savings in the services required to support children and young people with additional needs. In particular, the early intervention approach of the Named Person would result in reductions in the time spent by educational staff in addressing the needs of children and young people in crisis circumstances, such as child protection case conferences or children’s panel appearances.

53. Evidence on the benefits of GIRFEC highlights these efficiency savings and improved outcomes through closer cross partnership working and information sharing. In the Highland Pathfinder evaluation, the authors cite improved outcomes for the majority of children (two thirds of around 100 sampled) all of whom had complex needs. In addition, the following tangible benefits were realised:

- Fewer meetings and reports for all agencies, 75% time saving for meetings and administration was reduced to 10% of activity;
- Social worker caseloads reduced by 50% and inappropriate referrals to social work services reduced, freeing up time to focus on more serious concerns and circumstances involving vulnerable children;
- Unnecessary referrals to the Children’s Reporter reduced by 70%, leaving reporters and children’s panels increasingly free to focus on more serious cases at an earlier stage in the child’s or young person’s life; and
- A reduction of around 50% in the number of children regarded as at risk of significant harm and, therefore, on the Child Protection Register, attributed to the appropriate targeting of resources, early intervention and a more coordinated approach by all services and agencies under GIRFEC.

54. There is also evidence reported from other parts of Scotland of the benefits of adopting elements of GIRFEC practice. In Fife, there have been: significant reductions in referrals to the Children’s Reporter; a 30% reduction in out of authority placements; reduction in the average waiting time for referral to acute paediatric clinics for children with Autistic Spectrum Disorders from 3 years to 24 weeks; 54% diversion of children between 16 and 17 being reported to the Procurator Fiscal to alternative interventions; and a 50% drop in school exclusions. Similar gains were reported by Falkirk Council.

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Scottish Government, Changing Professional Practice and Culture to Get it Right for Every Child (2010)
Administrative Costs

55. As well as direct staff costs, additional administrative support needs to be estimated as well. This arises from the handling of any additional information sharing between the Named Person and other practitioners, in line with the Bill provisions, as well as administration relating to the Child’s Plan. It recognises that there would be different administrative needs between different types of schools, particularly the heavier needs of secondary schools.

Table 10: Estimated cost of administrative support for local authorities

<table>
<thead>
<tr>
<th></th>
<th>Number of schools</th>
<th>Admin support (hours per week)</th>
<th>Working weeks</th>
<th>Total hours</th>
<th>Total cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary schools</td>
<td>376</td>
<td>4</td>
<td>52</td>
<td>78,208</td>
<td>860,288</td>
</tr>
<tr>
<td>Primary schools</td>
<td>2,153</td>
<td>1</td>
<td>39</td>
<td>83,967</td>
<td>923,637</td>
</tr>
<tr>
<td>Special schools</td>
<td>193</td>
<td>2</td>
<td>39</td>
<td>15,054</td>
<td>165,594</td>
</tr>
<tr>
<td>Total cost</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,949,519</td>
</tr>
</tbody>
</table>

56. For the same reasons set out for teacher costs above, it is assumed that this would be a one-off transitional cost of 1 year.

Costs on the NHS

57. As with the costs of the Named Person and the Child’s Plan for local authorities for children and young people aged between 5 and 18, similar costs will be incurred by health boards for children aged between 0 and 5.

58. There are 2 components to training costs: development of training materials; and training to prepare for the new duties. As with local authorities, it is assumed that training itself will be one-off and subsumed within existing training programmes after the first year of implementation.

- The development of training modules to fit within existing training has been identified along with the backfill costs (estimates have been based on discussion with senior NHS managers at a 60% staff replacement rate across all midwives/health visitors/public health nurses). The estimated salary of midwives/health visitors/public health nurses staff costs with on costs is £37,125 per annum (leaving an effective hourly rate of £19.04). This would apply to training across 2 days, resulting in a total one-off cost of £1,088,949 in 2015-16.

- As adequate training materials do not currently exist, training modules based on guidance will also need to be developed. Based on previous estimates from NHS Education for Scotland, this will be approximately £300,000. For the purposes of calculation, it is assumed that this cost will be incurred in 2014-15.

59. The functions of a Named Person will require some additional activity for midwives, health visitors and public health nurses. These will involve the holistic assessment based on information received and observed, any preparation towards the creation of a Child’s Plan where needed, and management of the plan through on-going involvement with the child and family as required.
60. In calculating the financial impact of the Bill provisions, account has been taken of the current activity by midwives, health visitors and public health nurses. Where new or additional work is required, assumptions have been made based on discussions with senior health staff. Advice has varied, reflecting the current different stages of implementation of the GIRFEC approach across Scotland, so national averages have been estimated.

- For 80% of all children between 0 and 5, it is assumed that there will be marginal concerns requiring additional activity over and above routine engagement. Average activity has been estimated:
  - For midwives the need for some additional activity around pre-birth assessment is recognised at 2 hours per child per year. This pre-birth assessment will help prepare for the relevant staff to take up the Named Person (and Child’s Plan) duties after birth;
  - For health visitors and public health nurses additional activity will amount to 1 hour per child in the age bands 0-1, 1 and 2; and
  - For those children aged 3-5 the additional work is considered minimal, reflecting current levels of activity.

- For the remaining 20% of all children for whom there will be emerging or significant concerns, there will be additional work to assess whether a Child’s Plan is required. This will include liaison between the midwife and the health visitor/public health nurse at transition and an hour each per midwife and health visitor/public health nurse has been assumed on average.

- For children with particularly complex needs, the additional role of the Named Person described in the Bill will be limited. These children are estimated to account for 2% of this wider group with emerging or significant concerns. These children will already be receiving significant support and it is not anticipated that there will be any additional requirements arising from the Named Person role.

- However, for the remaining 18% of this group of children with emerging or significant concerns, health visitors/public health nurses are likely to experience additional work. This has been estimated as an average of 10 hours per health visitor/public health nurse per child in the first year of implementation. As the new approach beds in, with a number of children being siblings and from families already known to health visitors, the additional hours are expected to reduce, reflecting the impact of preventative intervention and the efficiencies arising from less time spent in addressing children in crisis circumstances (e.g. child protection case conferences and children’s panels). The assumptions of hours per child per age group are set out below, as well as the current population estimates for the different age bands (used to calculate estimated costs for each year of implementation).

<table>
<thead>
<tr>
<th></th>
<th>0-1</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-17</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>50</td>
</tr>
<tr>
<td>2017-18</td>
<td>10</td>
<td>8</td>
<td>6</td>
<td>6</td>
<td>4</td>
<td>34</td>
</tr>
<tr>
<td>2018-19</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>26</td>
</tr>
<tr>
<td>2019-20</td>
<td>8</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>23</td>
</tr>
</tbody>
</table>

Table 11: Estimated additional midwife, health visitor and public health nurse hours for children with emerging or significant concerns at different ages
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 12: Population of children for different age bands (GROS, 2011*)

<table>
<thead>
<tr>
<th>Age Band</th>
<th>Total</th>
<th>Estimated children with emerging/ significant concerns***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-birth**</td>
<td>59,176</td>
<td>11,835</td>
</tr>
<tr>
<td>0-1</td>
<td>59,176</td>
<td>10,652</td>
</tr>
<tr>
<td>1</td>
<td>59,826</td>
<td>10,769</td>
</tr>
<tr>
<td>2</td>
<td>60,308</td>
<td>10,855</td>
</tr>
<tr>
<td>3</td>
<td>60,276</td>
<td>10,850</td>
</tr>
<tr>
<td>4</td>
<td>58,155</td>
<td>10,468</td>
</tr>
</tbody>
</table>

* The 2011 numbers have been assumed to have remained the same for 2014-15 to enable modelling.
** This number has been assumed to be the same as the 0-1 age band.
*** This has been calculated on the basis of 20% of the age cohort, adjusted for the 2% with particularly complex needs already receiving support.

61. From these estimated hours and size of cohort population, estimates of additional costs for midwife, health visitor and public health nurse activity can be calculated using the same salary assumption as above (i.e. an effective hourly rate of £19.04). These estimated costs, along with the other costs, are set out in the table below.

Table 13: Summary of GIRFEC costs to the NHS (£)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Training development</td>
<td>300,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Training backfill</td>
<td>0</td>
<td>1,088,949</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Midwives: activity for ‘80%’</td>
<td>0</td>
<td>0</td>
<td>1,802,738</td>
<td>1,802,738</td>
<td>1,802,738</td>
<td>1,802,738</td>
</tr>
<tr>
<td>Midwives: activity for ‘20%’*</td>
<td>0</td>
<td>0</td>
<td>1,126,711</td>
<td>1,126,711</td>
<td>1,126,711</td>
<td>1,126,711</td>
</tr>
<tr>
<td>Midwife/HV/PHN transition</td>
<td>0</td>
<td>0</td>
<td>450,684</td>
<td>450,684</td>
<td>450,684</td>
<td>450,684</td>
</tr>
<tr>
<td>HVs/PHNs: activity for ‘80%’*</td>
<td>0</td>
<td>0</td>
<td>2,731,250</td>
<td>2,731,250</td>
<td>2,731,250</td>
<td>2,731,250</td>
</tr>
<tr>
<td>HVs/PHNs: activity for ‘20%’*</td>
<td>0</td>
<td>0</td>
<td>10,204,298</td>
<td>6,945,297</td>
<td>5,303,059</td>
<td>4,692,122</td>
</tr>
<tr>
<td>Total</td>
<td>300,000</td>
<td>1,088,949</td>
<td>16,315,681</td>
<td>13,056,680</td>
<td>11,414,442</td>
<td>10,803,505</td>
</tr>
</tbody>
</table>

* This has been calculated on the basis of approximately 20% of babies born (20% of 60,000 which is 12,000) with four hours of midwife time at £24 an hour with on costs. This is needed to provide assessment and care planning pre-birth.
** This has been calculated on the basis of 20% of the different age cohorts, adjusted for the 2% with particularly complex needs already receiving support.

Costs on other bodies, individuals and businesses

62. For those children and young people in independent or grant maintained schools between the ages of 5 and 18, the Named Person and Child’s Plan duties fall on the relevant organisation. The approach to calculating the costs follows the same approach as for local authorities. For staff delivering the Named Person role or who have significant contact with the Named Person, and
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

will need to have knowledge of a Child’s Plan, there will be initial training required for 2 days. Training is currently provided by the Scottish Council of Independent Schools, at a cost of £95 per person, per day, and is, therefore, estimated to be £41,800 for Head Teachers and Depute Head Teachers.

63. As per the costings for local authority schools, there may be additional management time or non-class contact time required to deliver the Named Person role. Based on the same methodology that was used for local authority schools, this is estimated to cost £400,568.

Table 14: Estimated cost of additional teacher hours for private organisations

<table>
<thead>
<tr>
<th>Population of children 5-18 in independent schools</th>
<th>Children estimated to require extra help (%)</th>
<th>Additional hours estimated for each requiring additional help (per year)</th>
<th>Total additional hours for children estimated to require extra help (per year)</th>
<th>Total additional cost in teacher staffing time (per year) (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31,100</td>
<td>10</td>
<td>3.5</td>
<td>10,885</td>
<td>400,568</td>
</tr>
</tbody>
</table>

64. As per local authority education it is estimated that there may be additional administrative support required to address the handling of additional information sharing between the Named Person and other practitioners, in line with Bill provisions.

Table 15: Estimated cost of administrative support for private organisations

<table>
<thead>
<tr>
<th>Number of schools</th>
<th>Admin support (hours per week)</th>
<th>Working weeks</th>
<th>Total hours</th>
<th>Total cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>110</td>
<td>4</td>
<td>38</td>
<td>16,720</td>
<td>183,920</td>
</tr>
</tbody>
</table>

65. With respect to children and young people in secure accommodation, staff acting as Named Persons will continue to support children’s wellbeing and we expect that new requirements including the use of the Child’s Plan can be absorbed within existing training and staff development.

**Early Learning and Childcare**

66. Section 43 of the Bill establishes a duty on local authorities to secure a minimum of 600 hours flexible early learning and childcare for 3 and 4 year olds, and any 2 year old who is, or has been at any time since turning 2, looked after or subject to a kinship care order. Local authorities will also be obliged to provide flexible patterns of early learning and childcare within a minimum framework to meet local need, as identified through consultation. This will include:

- The needs of parents and children identified through consultation with local populations of parents every 2 years; and
- Responses to those consultations through published plans or local strategies to re-configure services over time to meet those needs within a minimum framework of no less than 2.5 hours/day, no more than 8 hours/day; and over no less than 38 weeks a year which are not confined to term times.
67. The main costs of these Bill provisions are the additional hours and additional flexibility or options of hours for those eligible children, in particular:

- Staff costs;
- Operational costs;
- Support costs; and
- Capital costs associated with adapting and expanding accommodation to meet requirements for longer sessions of early learning and childcare for eligible children.

**Costs on the Scottish Administration**

68. The duty to secure the additional hours will be on the local authority so there will be no cost to the Scottish Government.

**Costs on local authorities**

69. The cost to local authorities has been estimated on the basis of existing costs for the delivery of pre-school education or early learning and childcare and estimated costs of delivering new models. The current default model of provision of 475 hours per annum is 2.5 hours per day, 5 days per week, for 38 weeks per year. Local Government Financial Return Data (LFR) indicates that local authorities spent approximately £318,300,000 on pre-school education in 2010-11. This total includes employee costs, operating costs and support service costs. Local authorities also spent a further £527,000,000 on Special Education; with an estimated £17,000,000 of this directed to pre-school special education (based on an estimated 3.3% of children based in special schools as pre-school children).

**Table 16: Summary of cost components for 2010 - 2011**

<table>
<thead>
<tr>
<th>Cost components (2010-11)</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-school</td>
<td></td>
</tr>
<tr>
<td>Employee costs</td>
<td>222,563,000</td>
</tr>
<tr>
<td>Operating costs</td>
<td>85,166,000</td>
</tr>
<tr>
<td>Transfer payments</td>
<td>4,074,000</td>
</tr>
<tr>
<td>Revenue contributions to capital</td>
<td>254,000</td>
</tr>
<tr>
<td>Support Service costs</td>
<td>8,082,608</td>
</tr>
<tr>
<td>Total pre-school</td>
<td>318,345,000</td>
</tr>
<tr>
<td>Total Special education (3.3%)</td>
<td>17,392,254</td>
</tr>
<tr>
<td>Total costs</td>
<td>335,737,254</td>
</tr>
</tbody>
</table>
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

70. The estimated costs are as follows:

Table 17: Summary of additional costs of early learning and childcare (£)*

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff costs</td>
<td>44,148,000</td>
<td>50,000,000</td>
<td>57,169,000</td>
<td>65,000,000</td>
<td>75,300,000</td>
<td>75,300,000</td>
</tr>
<tr>
<td>Variable operational costs**</td>
<td>13,055,422</td>
<td>13,055,422</td>
<td>13,055,422</td>
<td>13,055,422</td>
<td>13,055,422</td>
<td>13,055,422</td>
</tr>
<tr>
<td>Variable support costs***</td>
<td>743,352</td>
<td>743,352</td>
<td>743,352</td>
<td>743,352</td>
<td>743,352</td>
<td>743,352</td>
</tr>
<tr>
<td>Looked after/kinship care 2 year olds</td>
<td>1,071,812</td>
<td>1,071,812</td>
<td>1,071,812</td>
<td>1,071,812</td>
<td>1,071,812</td>
<td>1,071,812</td>
</tr>
<tr>
<td>Partner provider up-rating</td>
<td>1,226,365</td>
<td>1,226,365</td>
<td>1,226,365</td>
<td>1,226,365</td>
<td>1,226,365</td>
<td>1,226,365</td>
</tr>
<tr>
<td>Total revenue****</td>
<td>48,782,982</td>
<td>70,895,976</td>
<td>78,064,976</td>
<td>85,895,976</td>
<td>96,195,976</td>
<td>96,195,976</td>
</tr>
<tr>
<td>Total capital</td>
<td>30,000,000</td>
<td>30,000,000</td>
<td>30,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total costs</td>
<td>78,782,982</td>
<td>100,895,976</td>
<td>108,064,976</td>
<td>85,895,976</td>
<td>96,195,976</td>
<td>96,195,976</td>
</tr>
</tbody>
</table>

* Costs are estimated in 2011-12 prices.

** Marginal operational costs are adjusted to 50%, reflecting the share of operational costs that need to rise to accommodate the additional hours.

*** Marginal support costs are adjusted to 30%, reflecting the share of support costs that need to rise to accommodate the additional hours.

**** Revenue costs in the first year assume an implementation date of August 2014 (hence, a 75% figure has been applied to the total revenue cost for 2014-15).

71. Estimated costs have been based on:

- an increase of 125 hours for 3 and 4 year olds;
- a range of exemplar models of delivery;
- an additional new entitlement of 600 hours for looked after 2 year olds and 2 year olds under a kinship care order.

72. It is not sufficient to cost the additional hours alone. Costs will vary according to how many hours per day children are in early learning and childcare. Staff ratios increase when children are in early learning and childcare for more than 4 hours (from 1:10 – 1:8) and, where children are aged 2 (a ratio of 1:5). There are other implications in terms of cover over meal times. Costs will also vary where local authorities are required to secure a range of patterns of hours in order to increase flexibility. Therefore, the estimated costs also reflect those factors.
73. The increasing flexibility will require a re-configuration of services in response to locally identified need and this will be achieved incrementally. Therefore the final estimated costs are incremental. Local authorities will have full flexibility to develop and re-configure services and provision to meet local need and circumstances, and it is expected that there will be a range of approaches to developing options over the first few years. This will be reflected in incrementally increasing revenue costs, front loaded in the first 3 years with capital to adapt or expand accommodation in response to local consultations. On-going consultation with parents, coupled with increasing revenue and capital support upfront will, therefore, ensure increasing flexibility of provision and the establishment of a range of choices and patterns for parents, and consistency for children.

74. The main additional costs arising from those provisions will be staff costs. Recruitment for additional staff and extensions or renegotiations of current staff contracts will also be required. Local authorities currently have high levels of access to a teacher in pre-school (96% of children) and local authorities often provide peripatetic teams of teachers to work with partner providers. The recent report by Education Scotland, *Making the difference*,\(^{11}\) found that the BA Childhood Practice Award is beginning to show a positive impact on children’s learning in the early years; and, that the best experiences for children are found where there is a range of staff with complementary skills and relevant higher qualifications. It is, therefore, envisaged that a continued mix of early years staff and skills will be paramount to ensure quality of expanded provision.

75. Working with COSLA and individual local authorities, the additional staff costs associated with a range of patterns of delivery have been estimated. The derivation of the revenue and capital costs for the early learning and childcare costs outlined below demonstrates that the incremental increase in flexibility is more complex to estimate than just additional hours. The other complex factor has been that models of flexibility used have been indicative examples developed by local authorities in advance of consultation with local populations. We have sought to mitigate this uncertainty by working closely with COSLA and others on their models and estimates of anticipated costs and, by building in an incremental approach which allows re-configuration of services in response to consultation which is planned and manageable.

76. Different models of provision will incur different costs. For the purposes of this estimate, a mixture of different flexible options set out in the consultation document\(^{12}\) and modelled by local authorities have been used as the final range of options for 2018-19 onwards. These models are only examples and, therefore, costs are indicative. The final models developed by local authorities will vary according to locally identified need and cannot be anticipated in advance of consultation. However, 5 models ranging from 2.5 hours a day extending over non-term time to 8 hours a day for 2 days a week over term time were analysed for staff implications and costs.

77. Indicative additional staff costs for those 5 models ranged from £44 million to £65 million, with an estimated increase to £75 million where there was a combination of models. The models of additional costs for local authorities were also reflective of their own different starting positions.

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\(^{11}\) Education Scotland, *Making the difference: The impact of staff qualifications on children’s learning in early years*, November 2012

78. These figures form the derivation of estimated staff costs, adjusted incrementally as services adapt and mix to reflect identified need.

79. As indicated, the main additional costs will be associated with staff. Additional operational and support costs have been added to those staff costs, based on variable marginal costs derived from the most recent local government financial return data.\(^{13}\) Not all costs will increase equally; marginal operational and support costs have been accordingly adjusted to 50% and 30% respectively.

80. Costs assume a continued commencement date of first term after the third birthday for 3 year olds. Additional costs have also been estimated for looked after 2 year olds and those 2 year olds who are, or who have been at any time since turning 2, looked after or subject to a kinship care order. Provision for 2 year olds will be different, and there is flexibility to provide more individualised approaches for looked after 2 year olds in a range of settings, and with parents or carers where appropriate. Cost estimates also allow for continued provision for looked after 2 year olds and those 2 year olds who, are or who have been, at any time since turning 2, subject to a kinship care order, until they are eligible for universal provision at the first term after the third birthday, even if their looked after or kinship care status changes, in order to ensure consistency and minimise transitions for the most vulnerable 2 year olds.

81. Early learning and childcare will continue to include those children with additional support needs, and this has been factored into the estimated revenue costs. They have been calculated on a pro-rata basis from the existing additional support for learning needs published expenditure.\(^{14}\) Special education apportionment is estimated at 3.3% of the special school population and 3.3% of the special education budget. 90% of this is estimated as a variable cost.

82. Broadly, local authorities secure around 40% of provision through independent, private and third sector partners; it is anticipated that local authorities will continue to use those sectors to provide capacity and flexibility. The National Day Nursery Association and some partner providers have raised the issue of unsustainable funding levels for the majority of partner provider placements, especially if the patterns of placements change to full or half days. The Scottish Government issued an annual advisory floor letter to local authorities to set an advisory minimum payment level for a pre-school education. This was in place until 2007 when this stopped under the terms of Concordat and block funding, whereby it was agreed this advice was no longer appropriate. The last letter issued in 2007 advised a payment of £1,550 per annum per child. There has been no consistent increase across local authorities since then. Estimating hourly costs in line with inflation increases costs from what would have been £3.73 per hour to £4.09 an hour. The revenue estimate takes into consideration inflationary linked payments for partner providers as a partner uprating.

83. Capital costs will be required to adapt existing provision for additional hours and associated accommodation needs. Capital costs are estimated on the basis that local authorities will have variable needs ranging from adaptation of existing accommodation to additional provision, such as additional integrated space with current schools or local authority estate resources, or small stand-alone units. This will also depend upon the current pre-school estate in each local authority


\(^{14}\) Ibid.
area, the use of partner providers, the response of local authorities to consultation and their re-
configuration strategies. Capital estimates are based on Scottish Futures Trust metrics for
primary schools. This is an allowance of 7.5 square metres per child at a cost of £2,350 per
square metre. Costs could be: around £700,000 for an integrated unit for 40 morning and 40
afternoon children; around £1,500,000 for a stand-alone unit for 80 children; or less for smaller
alterations and adaptations. In the absence of inclusion of the pre-school estate in the annual
national School Estate Core Facts Survey on the size, condition, suitability and capacity of all
primary, secondary and special schools, refurbishment and/or rebuilding information, and
knowledge of the views of local parents, this estimate is necessarily limited. Nevertheless, it has
been tested with a number of local authorities.

Costs on other bodies, individuals and businesses
84. There are no further costs anticipated for others.

GETTING IT RIGHT FOR LOOKED AFTER CHILDREN
85. The costs of these Bill provisions relate to 4 sets of provisions affecting looked after
children:
   • Putting Scotland’s Adoption Register on a statutory footing;
   • Providing for a clear definition of corporate parenting, and defining the bodies to
     which it will apply;
   • Placing a duty on local authorities to assess a care leaver’s request for assistance up
to and including the age of 25;
   • Providing families in distress where a child is at risk of being looked after access to
     appropriate intensive family therapy; and
   • Providing for additional support to be given to kinship carers in relation to their
     parenting role, through the kinship care order.

Section 50 – Extending the range and number of corporate parents
86. The Bill sets out a number of public bodies which will be considered ‘corporate parents.’

Costs on the Scottish Administration
87. As this duty will fall on the wider public sector, there will be no cost to the Scottish
Administration. However, the Scottish Government may continue to provide corporate parenting
training. In May 2010, the Scottish Government commissioned Who Cares? Scotland to develop
and run a national corporate parenting training programme, aimed at local authority elected
members and health board members. The funding was £300,000 over 3 years, and came to an
end in March 2013. The overall aim of the programme was to improve awareness of corporate
parenting responsibilities and duties for new and existing corporate parents, and to highlight the
challenges faced by looked after children and young people. The programme has recently been
evaluated. A second phase, which would extend the reach of the programme to a broader range
of corporate parents, is under negotiation. The cost would likely be similar to Phase 1.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Costs on local authorities, other bodies, individuals and businesses.

88. A duty will be placed on a number of public bodies listed as corporate parents in the Bill to develop, consult on and publish a corporate parenting plan, which they will need to review from time to time. It has been assumed that every 3 years they will publish reports on how they have exercised their responsibilities, in such a manner as they consider appropriate. There may be a marginal cost associated with this duty which would fall on the corporate parents.

89. Corporate parents are encouraged to collaborate in publishing joint plans or reports, which would allow them to share costs. They are also encouraged to utilise any current reporting or planning processes to satisfy this duty. This should minimise costs as organisations will already likely have allocated resources to support these reporting processes. In addition, where a public body named as a corporate parent has a limited role in that regard, then the extent to which it is necessary to plan and report may also be limited.

90. Therefore, any additional costs likely to fall on public bodies as a consequence of the Bill would be expected to be limited to £820-2,700 per corporate parent, depending on the size of their role and influence, in relation to developing, consulting on and publishing a plan. This estimate covers web publishing costs of a short consultation document and a plan, plus staff time to analyse responses. In relation to publishing reports, the estimate is £350-770. The estimates reflect current experience in applying corporate parenting duties. Given the number of expected corporate parents, the total cost is estimated at £74,240 once every 3 years.

Section 60 – Extending throughcare and aftercare support

91. The Bill provides for care leavers to ask their local authority to be assessed as to whether they need financial support and assistance up to and including the age of 25 and for the local authority to provide support and assistance where a care leaver's needs are considered to be eligible, when the care leaver is unable to get that support from elsewhere.

Costs on the Scottish Administration

92. The duty will be placed on local authorities to provide the support and assistance, and, therefore, there will be no cost to the Scottish Government.

Costs on local authorities

93. The cost of the provision will fall on local authorities, principally through an estimated increase in the number of care leavers who will receive support. To calculate this increase, it is first necessary to establish a baseline for the expected number of care leavers who would receive support in the absence of the provision. In arriving at an estimate of cost we have consulted with a number of local authorities and COSLA.15

94. The “Children Looked After Statistics” set out the number of care leavers eligible for aftercare support by age. As at 31 July 2011, there were 3,662 care leavers aged 15 to 21 (up to but not including their 22nd birthday) who were eligible for aftercare support. Over the last 3

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15 These include: East Dunbartonshire; Falkirk; Inverclyde; North Lanarkshire; Perth and Kinross; South Lanarkshire; and West Dunbartonshire.
years the number of young people leaving care has been fairly stable. Consequently, in modelling future numbers of care leavers (at commencement of this Bill provision in 2015), we use current numbers of care leavers by age as a proxy.

95. There are two groups of care leavers who will be eligible for support under the provisions. In extending the duty on local authorities to offer support and assistance to young people up to and including 25 year olds, new care leavers will be eligible to request support, including those aged between 21 and 25 who were not eligible previously but who will qualify with the age extension. In addition, there will be a number of former care leavers who will re-qualify, including those aged 19-21 who had applied previously but for whom the application for support was turned down.

96. Most local authorities neither collect nor retain data on: how long these care leavers have been out of care at the time they were granted support and assistance; who applied for support from a local authority, but were denied it; and the duration of aftercare support. For these reasons it is difficult to model fully how many young people might come forward for support. In the following modelling, costing assumptions have been made to create a realistic estimate.

97. To estimate the cost of this provision, two elements need to be determined. First, the additional number who are likely to receive support and the duration of support; and second, the average cost of support per care leaver.

98. Under current provisions, in 2011, there were 975 care leavers between the ages of 19 and 21 receiving aftercare. It is assumed that all of these care leavers will come forward to have their needs assessed under the new proposal. As the proposals will extend throughcare and aftercare support to 25 year olds, it is estimated that a further 2,500 young people aged 21-25 inclusive may also come forward to have their needs assessed. This estimate assumes that around 500 in each of the 5 age cohorts 21-25 are eligible in each 12-month period, reflecting the approximate number of 20 year olds (492) qualifying in 2011. It is, therefore, estimated that a total of around 3,725 young persons aged 19-25 in 2015 may come forward to have their needs assessed under the new duty.

99. Several other factors need to be taken into consideration to estimate the cost impact.

- First, the number of young people who come forward for support should decline with the age of the care leaver, and reflect the natural process whereby young adults gain their own support and independence as they get older. This tapering effect is reflected in the table below and the initial numbers for 2015-16 are drawn from current 2011 figures for eligible care leavers at that age.
- Second, it is not expected that all care leavers will take up the support. The uptake will more than likely happen in the early stages after they leave care. For that reason, and to annualise costs, it has been considered that support would be provided over a 3 year period. The table sets out the flow of eligible care leavers at that age.
- Lastly, the proportion of successful applicants under the provision is likely to change. It is estimated that in 2011, local authorities granted support and assistance

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These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

to 56% of care leavers aged 19–21. However, under the new provision, it is estimated that the provision of support will extend to 65%. For example, in the table below, when applying this to the number of young people estimated to be eligible to apply in 2015-16 (3,225), the total would be 2,096 young people.

Table 18: Total numbers eligible for support for throughcare and aftercare at different ages

<table>
<thead>
<tr>
<th></th>
<th>19</th>
<th>20</th>
<th>21</th>
<th>22</th>
<th>23</th>
<th>24</th>
<th>25</th>
<th>Total eligible</th>
<th>Total likely to be successful for support (65%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>727</td>
<td>492</td>
<td>506</td>
<td>450</td>
<td>400</td>
<td>350</td>
<td>300</td>
<td>3,225</td>
<td>2,096</td>
</tr>
<tr>
<td>2016-17</td>
<td>700</td>
<td>600</td>
<td>500</td>
<td>450</td>
<td>400</td>
<td>350</td>
<td>300</td>
<td>3,300</td>
<td>2,145</td>
</tr>
<tr>
<td>2017-18</td>
<td>700</td>
<td>600</td>
<td>500</td>
<td>450</td>
<td>400</td>
<td>350</td>
<td>300</td>
<td>3,300</td>
<td>2,145</td>
</tr>
<tr>
<td>2018-19</td>
<td>700</td>
<td>600</td>
<td>500</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>50</td>
<td>2,250</td>
<td>1,463</td>
</tr>
<tr>
<td>2019-20</td>
<td>700</td>
<td>600</td>
<td>500</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>50</td>
<td>2,250</td>
<td>1,463</td>
</tr>
</tbody>
</table>

100. The second element that needs to be determined is the average cost of support per care leaver. Different parts of Scotland offer different throughcare and aftercare services and the average cost per young person across local authorities reflects this variation. It is difficult to identify total expenditure on throughcare and aftercare as it has been difficult to obtain data from local authorities. We have drawn on information received from a number of local authorities in Scotland detailing their aftercare services. The average costs of these services over a 12 month period have been used to arrive at an estimated range of total additional expenditure for the proposal as set out in the table below. The duty will apply only to eligible needs that cannot be met from elsewhere. Eligible needs will be defined in an order to be made by Scottish Ministers but it is anticipated that they will be those needs that are essential to daily living. The table below reflects this.
Table 19: Cost components of aftercare services to age group 19-25

<table>
<thead>
<tr>
<th>Resource required</th>
<th>Possible cost per care leaver</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Furnishing of new tenancy (one-off)</strong></td>
<td>£2,000 (one-off)</td>
</tr>
<tr>
<td>Items such as white goods, furniture, basic kitchen equipment</td>
<td></td>
</tr>
<tr>
<td><strong>Travel – could include travel costs to places of employment, training or education</strong></td>
<td>Average cost of £400 per year</td>
</tr>
<tr>
<td>Potentially bus passes, train tickets or taxi fares in crisis or emergency</td>
<td></td>
</tr>
<tr>
<td><strong>Emergency payments</strong></td>
<td>Up to £200 per year</td>
</tr>
<tr>
<td>Could include emergency utility cards, food and groceries, children’s equipment, replacement or repair of white goods etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Payments to other agencies and/or supports</strong></td>
<td>Up to £1,500</td>
</tr>
<tr>
<td>Input from a third sector organisation who may offer specific or intensive support to implement part of the Pathways Plan (e.g. support with parenting skills or housekeeping). Other support may require payment (i.e. support groups, clubs and activities).</td>
<td></td>
</tr>
</tbody>
</table>

101. For the purposes of calculating the average cost per care leaver, it is useful to separate out continuing annual costs and one-off costs. Overall, annual support costs have been estimated at an average annual cost of £3,142 per young person, consisting of an average of £2,100 in support costs (based on the costs identified in the table above) and estimated application/process costs at £1,042 (based on average caseloads and average worker salaries).

102. Aftercare support is currently provided to 975 young people aged 19-21, and if there were no change in legislation, then it is likely that this will continue with a similar number. If it is assumed that under the new provisions, 2,096 young people will be likely to receive aftercare support in 2015-16 (for example), then that means there would be an additional cost for 1,121 young people. The table below sets out how this would result in a set of annual net additional costs.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 20: Additional annual support* cost of throughcare and aftercare

<table>
<thead>
<tr>
<th></th>
<th>Estimated total which will be successful for recurring support</th>
<th>Total cost per year (at £3,142) (£)</th>
<th>Estimated number of care leavers already receiving support</th>
<th>Cost of current support per year (at £3,142) (£)</th>
<th>Net additional cost per year (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>2,096</td>
<td>6,585,632</td>
<td>975</td>
<td>3,063,450</td>
<td>3,522,182</td>
</tr>
<tr>
<td>2016-17</td>
<td>2,145</td>
<td>6,739,590</td>
<td>975</td>
<td>3,063,450</td>
<td>3,676,140</td>
</tr>
<tr>
<td>2017-18</td>
<td>2,145</td>
<td>6,739,590</td>
<td>975</td>
<td>3,063,450</td>
<td>3,676,140</td>
</tr>
<tr>
<td>2018-19</td>
<td>1,463</td>
<td>4,596,746</td>
<td>975</td>
<td>3,063,450</td>
<td>1,533,296</td>
</tr>
<tr>
<td>2019-20</td>
<td>1,463</td>
<td>4,596,746</td>
<td>975</td>
<td>3,063,450</td>
<td>1,533,296</td>
</tr>
</tbody>
</table>

* This does not include the one-off furnishing grant of £2,000, which is discussed below.

In addition, there may be a one-off cost of £2,000 for furnishing. Of the 2,096 young people who will be successful in receiving general financial support, it is estimated that approximately 25% will also be successfully assessed for support with this one-off furnishing cost of £2,000. This estimate is much lower than the support costs, as there will often be occasions where the young person will have already been in receipt of this furnishing cost, when they first move into new accommodation at 18. As this is a one-off cost, it has been annualised over the average term that young people are expected to be in receipt of aftercare (3 years, as stated above) for the purposes of presenting annual total costs. The table below sets out the costs per year that would result.

Table 21: Additional one-off support cost of throughcare and aftercare

<table>
<thead>
<tr>
<th></th>
<th>Estimated total which will be successful for recurring support</th>
<th>Number eligible for one-off support</th>
<th>Total cost (based on £2,000 furnishing cost) (£)</th>
<th>Total cost annualised over 3 years (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>2,096</td>
<td>524</td>
<td>1,048,000</td>
<td>349,333</td>
</tr>
<tr>
<td>2016-17</td>
<td>2,145</td>
<td>536</td>
<td>1,072,500</td>
<td>357,500</td>
</tr>
<tr>
<td>2017-18</td>
<td>2,145</td>
<td>536</td>
<td>1,072,500</td>
<td>357,500</td>
</tr>
<tr>
<td>2018-19</td>
<td>1,463</td>
<td>366</td>
<td>731,250</td>
<td>243,750</td>
</tr>
<tr>
<td>2019-20</td>
<td>1,463</td>
<td>366</td>
<td>731,250</td>
<td>243,750</td>
</tr>
</tbody>
</table>
104. Finally, the table below sets out the additional total cost each year based on the annual and one-off costs set out above.

**Table 22: Additional total cost of throughcare and aftercare**

<table>
<thead>
<tr>
<th>Year</th>
<th>Net additional annual costs (£)</th>
<th>Total one-off costs (£)</th>
<th>Total combined costs (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>3,522,182</td>
<td>349,333</td>
<td>3,871,515</td>
</tr>
<tr>
<td>2016-17</td>
<td>3,676,140</td>
<td>357,500</td>
<td>4,033,640</td>
</tr>
<tr>
<td>2017-18</td>
<td>3,676,140</td>
<td>357,500</td>
<td>4,033,640</td>
</tr>
<tr>
<td>2018-19</td>
<td>1,533,296</td>
<td>243,750</td>
<td>1,777,046</td>
</tr>
<tr>
<td>2019-20</td>
<td>1,533,296</td>
<td>243,750</td>
<td>1,777,046</td>
</tr>
</tbody>
</table>

*Costs on other bodies, individuals and businesses.*

105. It is estimated that there will be no additional cost to other bodies, individuals and businesses.

**Sections 61 – 67 – Duties relating to kinship care and family therapy**

106. The duty is placed on local authorities to provide, where appropriate, enhanced support to kinship carers who apply for, consider applying for, have obtained or are subject to a section 11(1) of the Children (Scotland) Act 1995. These section 11 orders will be re-designated a kinship care order. By placing a duty on local authorities, the Bill ensures that those who apply for, consider applying for, have obtained or are subject to a kinship care order will be entitled to assistance if the relevant eligibility test is met. This will also apply to eligible children who have reached the age of 16, but who were subject to a kinship care order immediately prior to turning this age. The type of assistance will be prescribed by the Scottish Ministers in secondary legislation.

107. There are 2 categories of kinship care that will be affected by this measure, formal and informal kinship arrangements.

108. Formal kinship care is where a child is placed under section 25, 70, 57 or 17(6) of the Children Scotland Act 1995 with a kinship carer. This arrangement is defined in the Looked After Children (Scotland) Regulations 2009 and a duty is placed on local authorities to ensure their procedures explicitly address the needs of kinship care and they have appropriate processes in place.

109. Informal kinship care is where a family with limited or no social work intervention has made arrangements with the birth family to look after a child, and where the child is not looked after. In these circumstances kinship carers do not have specific entitlement to additional support from local authorities, although some local authorities may provide support under section 22 of the Children (Scotland) Act 1995. Some informal kinship carers may have obtained a section 11 order under the Children (Scotland) Act 1995 which provides some or all parental responsibilities and rights for the child, which may include a residence order stating where the child should reside. Such an order does not, however, confer any specific duties on local authorities to provide additional support.
Costs on the Scottish Government

110. The duty will be placed on local authorities and, therefore, there will be no cost to the Scottish Government.

Costs on local authorities

111. The costs associated with the provisions relate to: additional eligibility to local authority support to kinship carers; a set of financial entitlements and other supports (to be detailed in regulations); and transitional costs for implementing the changes.

112. There will be avoided future costs associated with this measure. Estimating these costs is critical to the operation of these provisions. It is anticipated that these new measures will attract kinship carers from both formal and informal arrangements. The mechanism by which the order achieves this is by providing an enhanced permanence option for families where it is appropriate for a kinship carer to become the primary carer, with parental responsibilities and rights or in a supportive role to the birth parents. The costs will reflect the migration from both types of arrangement to the new kinship care order.

Support available in relation to the kinship care order

113. The table below sets out the proposed support available to kinship carers and families which will be set out in Regulations.

Table 23: Support available in relation to the kinship care order

<table>
<thead>
<tr>
<th>1. Support to kinship carers who hold a kinship care order</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Information, advice and counselling support</td>
<td></td>
</tr>
<tr>
<td>Transitional support (where a child is formally looked after immediately prior to the order)</td>
<td></td>
</tr>
<tr>
<td>Essential start up grant of £500</td>
<td></td>
</tr>
<tr>
<td>Assistance with essential transport to comply with section 11 contact order</td>
<td></td>
</tr>
<tr>
<td>(Up to) 600+ hours early learning and childcare for a 2 year old</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Support to kinship carers applying for a kinship care order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information, advice and counselling support</td>
</tr>
<tr>
<td>Assistance with kinship care order petition</td>
</tr>
</tbody>
</table>

114. The first category of support is for those who are granted an order. Regulations will specify a general qualifying test which is linked to the current or projected risk that a child may need to become formally looked after. This test would only apply once and periodic reviews by the local authority would determine whether on-going support was needed. Various support options would be available.

- The right to transitional support attempts to address the concern of kinship carers who can provide long term care for a child currently looked after, that they will be unable to access support if a child leaves formal care onto a kinship care order.

- The right to an essential start up grant meets a general but important need whereby carers can find themselves facing a cliff-edge of additional costs (e.g. for bedding,
clothes and household items). With a high proportion of kinship carers on low incomes, these costs can be prohibitive. The proposal is for a grant of £500 per child (based on discussion with a selection of local authorities).

- The right to assistance with essential transport costs is linked to supporting the carer with essential transport costs to comply with the terms of a section 11 contact order (e.g. where the child in kinship care meets the birth parent once a week and must be accompanied by the kinship carer). Given the older age profile of many kinship carers, many would be eligible for free bus travel locally. While most would not need this support, when it applies it can be reasonably costly. The assumption is £500 to £1,800 in a given year which translates to approximately £10 to £35 a week.

- The Bill will extend early learning and childcare entitlement to looked after 2 year olds. These costs are identified in the section on early learning and childcare. This will be available without the eligibility test.

115. The second category of support applies to kinship carers before an application is made to the court. Assistance is likely to be determined by eligibility criteria linked to the circumstances of the child and/or carer. The support provided could be by way of advice, information, practical assistance and financial contributions. This could be direct or in kind.

**Costs on support relating to the kinship care order**

116. The Bill measures are not designed to replace formal kinship care entirely. They will, however, offer formal and informal kinship carers an alternative means of securing care arrangements, without recourse to formal care, which is not always desirable to kinship carers or necessary for the long-term care of a child.

117. The costs associated with the support provided in relation to a section 11 order awarded to an eligible kinship carer (henceforth a kinship care order) can be broken down into different categories; the cost of formal carers obtaining a kinship care order, the cost of informal carers obtaining a kinship care order; the transitional costs for local authorities; and the avoided costs of formal care.

118. These sets of costs will be worked through individually.

**Costs of formal kinship carers applying for the kinship care order**

119. It is expected that a proportion of formal carers will apply for a kinship care order. We have estimated this based on the numbers of those already applying for section 11 orders and assumptions tested with some local authorities. The upper and lower bands are shown in the table below and assume a modest increase on existing applications for section 11 orders (currently accounting for 4% of formal carers).
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 24: Projected numbers of formal carers who will apply for the kinship care order

<table>
<thead>
<tr>
<th></th>
<th>Estimated number of children in formal kinship care</th>
<th>Applications that relate to children formally cared for: lower estimate</th>
<th>% equivalent</th>
<th>Applications that relate to children formally cared for: upper estimate</th>
<th>% equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>5,039</td>
<td>124</td>
<td>2</td>
<td>195</td>
<td>4</td>
</tr>
<tr>
<td>2016-17</td>
<td>5,367</td>
<td>226</td>
<td>4</td>
<td>352</td>
<td>7</td>
</tr>
<tr>
<td>2017-18</td>
<td>5,715</td>
<td>368</td>
<td>6</td>
<td>637</td>
<td>11</td>
</tr>
<tr>
<td>2018-19</td>
<td>6,087</td>
<td>386</td>
<td>6</td>
<td>672</td>
<td>11</td>
</tr>
<tr>
<td>2019-20</td>
<td>6,483</td>
<td>404</td>
<td>6</td>
<td>709</td>
<td>11</td>
</tr>
</tbody>
</table>

120. For formal carers, table 25 lists the support that is likely to be applicable, estimates the proportion who are likely to be eligible applicants and sets out the upper estimates of the costs of each form of support.

Table 25: Cost of support provided to formal carers receiving kinship care orders

<table>
<thead>
<tr>
<th></th>
<th>Proportion eligible (%)</th>
<th>Upper unit cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start-up grant</td>
<td>50</td>
<td>500</td>
</tr>
<tr>
<td>Petition support</td>
<td>66</td>
<td>1,500</td>
</tr>
<tr>
<td>Information etc *</td>
<td>100</td>
<td>180</td>
</tr>
<tr>
<td>Transitional support *</td>
<td>75</td>
<td>4,500</td>
</tr>
<tr>
<td>Transport *</td>
<td>10</td>
<td>1,550</td>
</tr>
</tbody>
</table>

*Recurring costs

121. In terms of assumptions, the following have been applied:

- The £500 start-up grant will likely be time limited to around 12 months from the date the kinship arrangement began. Around 50% of applicants for the kinship care order would be eligible.

- Information support is based on 2-14 hours of time spent with a client by a suitable officer, at an hourly rate of around £25 including on costs.

- Transport costs are likely to be high but only apply to a minority of cases. It is assumed that 1 in 10 or 10% of applicants are likely to need this support.

- It is assumed all 2 year olds (approximately 5% of all children) subject to a kinship care order will be eligible for early learning and childcare (this was modelled earlier in the Memorandum).

- Following discussions with Scottish Legal Aid Board, we believe local authorities will need to meet costs associated with petitions in around two thirds of cases. This could take the form of advice or information or financial support – our upper estimate is a typical cost for legal aid associated with a section 11 residence order.

- Transitional support would be provided for a period of 3 years: hence, costs are modelled in terms of one off costs (counted once) and recurring costs (counted 3 times for each case, and as marked in the table 25 above).
Transition costs

122. Table 25 also models eligibility for the right to transitional support, which will only apply to kinship carers of children who are formally looked after at the time the order is granted. The actual support provided will be linked to the needs of the child and as such will involve an assessment. Support will only be provided if it is not automatically provided elsewhere through universal services in Scotland or across the UK (including through the UK benefits system).

123. As transitional support is expected to be provided on top of entitlements provided by universal services it is assumed that some kinship carers will be notionally eligible but will not in fact need additional support from the local authority. For some, on-going support may mean continuing weekly allowances for a period of up to 3 years or other, non-monetary support such as counselling or respite. The order does not convey additional rights to allowances. However, for practical purposes and based on scenarios discussed with local authorities, the cost here is modelled on providing a ‘top up’ allowance of £70 a week for 3 years in addition to around £900 for other general support costs.

Costs of informal kinship carers applying for the kinship care order

124. The model also needs to estimate the number of informal carers who will apply for the kinship care order and meet the ‘at risk’ test. It is estimated that between 220 and 530 informal carers will make applications each year. These lower and upper projections are based around the numbers of relevant section 11 orders currently petitioned for each year and assumptions relating to the number of kinship care applications likely to be made (based on discussion with a selection of local authorities). As a result, the kinship care order would lead to a small increase in the number of informal kinship carers applying for section 11 orders.

125. The scale of informal kinship care is difficult to gauge because of lack of data, but can be assessed using the most recent evidence collected and trend assumptions. There is anecdotal evidence that a growing proportion of kinship care is now formally recognised, and currently stands at approximately 20%. As there were 3,917 in formal kinship care in 2011, this suggests that approximately 15,668 children in Scotland may have been in informal kinship care arrangements and eligible for the new kinship care order. For simplicity it is assumed that this number would be similar in 2015. We have estimated that, the number of informal kinship carers applying for the kinship care order would account for approximately 1.5-3.5% of the estimated number of informal kinship care arrangements each year.

126. For informal carers, table 26 lists the support that is likely to be applicable and estimates the proportion of carers who are eligible applicants.

---

17 SPICE briefing, ‘Spotlight on Kinship Care’ (25 January 2012)
Table 26: Cost of support provided to informal carers receiving kinship care orders

<table>
<thead>
<tr>
<th>Service</th>
<th>Proportion eligible (%)</th>
<th>Upper unit cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parenting capacity assessment</td>
<td>100</td>
<td>1,500</td>
</tr>
<tr>
<td>Start-up grant</td>
<td>50</td>
<td>500</td>
</tr>
<tr>
<td>Petition support</td>
<td>66</td>
<td>1,500</td>
</tr>
<tr>
<td>Information etc *</td>
<td>100</td>
<td>180</td>
</tr>
<tr>
<td>Transport *</td>
<td>10</td>
<td>1,550</td>
</tr>
</tbody>
</table>

*Recurring costs

127. Assumptions are broadly similar to those relating to support for formal kinship carers. There are no transitional costs, as noted above, but in all cases of informal carers, a parenting capacity assessment would be needed to determine (i) whether the family meets the ‘at risk’ test and (ii) the type of support needed.

Combined cost impact from informal and formal arrangements

128. Part of the purpose of the order and the accompanying measures is to reduce unchecked growth in formal kinship care, which has increased by 87% over the 4 years since 2007. The population of looked after children in formal kinship care arrangements as at July 2011 stood at 3,917 children and young people aged 0-21 years. In the absence of any policy change, this is likely to continue on an upward trend. Assuming a continuing rate of annual expansion of 6.5%, by 2019-20, approximately 6,483 children would be in formal kinship care arrangements in Scotland.

129. At an average annual cost of £5,331 per child (based on kinship allowances, at an average of £102.52 per week), the cost of this obligation would exceed £35 million per annum. This does not take account of additional financial contributions, one-off support, respite, support groups and other support provided locally. On the basis of an average social worker’s time with a typical salary and a caseload of around 12, the total cost in 2019-20 would amount to nearly £58 million.

130. As a result of the additional support provided to kinship carers obtaining a section 11 order we expect numbers of such orders to rise beyond the current estimated levels (approximately 200 a year). The lower and upper estimates on the number of applications, set out in table 24, as well as assumptions on application success rates (as derived from discussion with selected local authorities) have been used to estimate the numbers in the table below. Because the kinship care order acts to prevent a child becoming looked after unnecessarily, this would give rise to future avoided costs compared with the expenditure local authorities would need to make otherwise. Table 27 demonstrates how the projected numbers in formal kinship care would be affected by the lower and upper assumptions of take up of the order.

---

Table 27: Projected number in formal kinship care

<table>
<thead>
<tr>
<th></th>
<th>Projected number in formal kinship care in absence of kinship care order and counselling services</th>
<th>Number of children each year who avoid becoming looked after: lower estimate</th>
<th>Projected number in formal kinship care with lower estimate of kinship care order</th>
<th>Number of children each year who avoid becoming looked after: upper estimate of kinship care order</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>5,039</td>
<td>319</td>
<td>4,720</td>
<td>1,045</td>
</tr>
<tr>
<td>2016-17</td>
<td>5,369</td>
<td>551</td>
<td>4,818</td>
<td>1,515</td>
</tr>
<tr>
<td>2017-18</td>
<td>5,715</td>
<td>851</td>
<td>4,864</td>
<td>2,115</td>
</tr>
<tr>
<td>2018-19</td>
<td>6,087</td>
<td>869</td>
<td>5,218</td>
<td>2,150</td>
</tr>
<tr>
<td>2019-20</td>
<td>6,483</td>
<td>887</td>
<td>5,596</td>
<td>2,187</td>
</tr>
</tbody>
</table>

131. On the basis of the lower and upper estimates of numbers in formal kinship care and the costs set out above, table 28 shows the avoided future costs that would arise from the order. The model suggests that avoided future costs arise from the first year of implementation and increase for the first few years before stabilising. This applies whether the lower or upper estimates are used for the numbers of children diverted from formal kinship care.

132. The model bases avoided future costs on the numbers in formal kinship care in a given year – the true picture of formal kinship care involves a significant number of children coming into and leaving formal supervision arrangements each year and across different types of care placement, including foster care, residential care and looked after at home with birth parents. This ‘churn’ is very difficult to model, so we have assumed conservatively that the avoided costs associated with diverting an individual child from care only last for a single year, rather than several years or indeed, permanently.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 28: Projected avoided costs arising from diverting children from formal kinship care

<table>
<thead>
<tr>
<th>Year</th>
<th>Projected number in formal kinship care in absence of kinship care order and counselling services</th>
<th>Projected cost in absence of kinship care order (£)*</th>
<th>Projected number in formal kinship care with lower estimate of kinship care order</th>
<th>Projected cost with lower estimate (£)*</th>
<th>Projected number in formal kinship care with upper estimate of kinship care order</th>
<th>Projected cost with upper estimate (£)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>5,039</td>
<td>45,340,922</td>
<td>4,667</td>
<td>41,993,666</td>
<td>3,364</td>
<td>30,269,272</td>
</tr>
<tr>
<td>2016-17</td>
<td>5,369</td>
<td>48,310,262</td>
<td>4,713</td>
<td>42,407,574</td>
<td>3,224</td>
<td>29,009,552</td>
</tr>
<tr>
<td>2017-18</td>
<td>5,715</td>
<td>51,423,570</td>
<td>4,601</td>
<td>41,399,798</td>
<td>2,655</td>
<td>23,889,690</td>
</tr>
<tr>
<td>2018-19</td>
<td>6,087</td>
<td>54,770,826</td>
<td>4,955</td>
<td>44,585,090</td>
<td>2,992</td>
<td>26,922,016</td>
</tr>
<tr>
<td>2019-20</td>
<td>6,483</td>
<td>58,334,034</td>
<td>5,333</td>
<td>47,986,334</td>
<td>3,351</td>
<td>30,152,298</td>
</tr>
</tbody>
</table>

Avoided future costs: lower estimate (£)** | Avoided future costs: upper estimate (£)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Avoided future costs: lower estimate (£)**</th>
<th>Avoided future costs: upper estimate (£)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>3,347,256</td>
<td>15,071,650</td>
</tr>
<tr>
<td>2016-17</td>
<td>5,902,688</td>
<td>19,300,710</td>
</tr>
<tr>
<td>2017-18</td>
<td>10,023,772</td>
<td>27,533,880</td>
</tr>
<tr>
<td>2018-19</td>
<td>9,185,736</td>
<td>27,848,810</td>
</tr>
<tr>
<td>2019-20</td>
<td>10,347,700</td>
<td>28,181,736</td>
</tr>
</tbody>
</table>

* This is based on an average annual cost of £5,331 per child (based on kinship allowances, at an average of £102.52 per week); and social worker costs per child of £3,667 (as tested with a number of local authorities).

** This is the difference between the projected costs of formal kinship care without and with a kinship care order in each year.

Sections 61 – 67 – Duties relating to provision of counselling services

133. A duty is placed on local authorities to assess children who are at risk of coming into care for access to counselling services such as family mediation or family group conferencing support.

134. This measure offers intensive family therapy at an early enough point in the breakdown of a family to stabilise the care environment and offset or reduce the risk of a child eventually becoming looked after. Therapy of this type may include family mediation or family group conferencing/decision making. This support would also apply to those with a relevant order. By restricting availability to those who meet the ‘at risk’ test the local authority retains professional ownership over the determination of whether the support is needed and how it is delivered.

135. Family therapy can result in a number of positive outcomes, one of which could be realising that a kinship carer may have a role in helping care for a child longer term. This may in turn lead to an application for a relevant order. Alternatively, the therapy may be sufficient in itself to arrest any further breakdown in the care environment.
Costs on the Scottish Government

136. The duties will be placed on local authorities and, therefore, there will be no cost to the Scottish Government.

Costs on local authorities

137. The costs associated with the provisions relate to the provision of information, parenting capacity assessment, and the provision of counselling services for families approaching crisis circumstances to avert children and young people being taken into care.

138. Modelling the eligible population for support to families with a child at risk of becoming looked after is particularly problematic and can be achieved in a number of ways. For practical purposes, the estimate below of the number of families likely to be eligible to access family mediation or family group conferencing is a proportion of the overall ‘children in need’ population. This group will be defined through Regulations as those families whose circumstances give rise to a substantial risk that a child will become looked after within a period of time, in the absence of additional support. It will be important to avoid this becoming overly focused on immediate risk (which is the current focus of statutory duties).

139. For practical purposes, there will be a further condition of eligibility that the right to family mediation (or the duty on the local authority to provide it) would not be triggered unless that particular form of support would benefit the family circumstances or reduce the risk of the child coming into care.

140. Table 29 provides lower and upper estimates of the numbers of eligible children based on the proportion who are referred to the Children’s Reporter on welfare grounds. The range below is necessarily broad. At the lower end, we would expect local authorities to be incurring expenditure no greater than they might otherwise through existing discretionary activity. At the upper end, we might expect a pronounced change in the volume of families who assert their right to assistance.

Table 29: Number of families applying for the support with a child at risk of becoming looked after

<table>
<thead>
<tr>
<th>Years</th>
<th>Numbers of children at risk of becoming looked after*</th>
<th>Lower estimate</th>
<th>% equivalent</th>
<th>Upper estimate</th>
<th>% equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>21,000</td>
<td>105</td>
<td>0.5</td>
<td>1,050</td>
<td>5.0</td>
</tr>
<tr>
<td>2016-17</td>
<td>21,000</td>
<td>210</td>
<td>1.0</td>
<td>1,050</td>
<td>5.0</td>
</tr>
<tr>
<td>2017-18</td>
<td>21,000</td>
<td>525</td>
<td>2.5</td>
<td>1,575</td>
<td>7.5</td>
</tr>
<tr>
<td>2018-19</td>
<td>21,000</td>
<td>525</td>
<td>2.5</td>
<td>1,575</td>
<td>7.5</td>
</tr>
<tr>
<td>2019-20</td>
<td>21,000</td>
<td>525</td>
<td>2.5</td>
<td>1,575</td>
<td>7.5</td>
</tr>
</tbody>
</table>

*Based on the approximate number of children referred to the Children’s Reporter on welfare grounds, 2011

141. The unit cost of parenting capacity assessment, providing information and intensive family therapy is drawn from examples provided by third sector organisations. For intensive
family therapy the average is made up of a lower unit cost of £750 and an upper cost of £2,500. In modelling the costs of this support, it is assumed that the support is provided once.

**Table 30: Costs associated with provision of support**

<table>
<thead>
<tr>
<th>Type of support</th>
<th>Proportion eligible (%)</th>
<th>Average unit cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parenting capacity assessment</td>
<td>100</td>
<td>1,500</td>
</tr>
<tr>
<td>Info</td>
<td>100</td>
<td>103</td>
</tr>
<tr>
<td>Intensive family therapy</td>
<td>80</td>
<td>1,625</td>
</tr>
</tbody>
</table>

142. Research, project evaluations and in house evidence from local authorities generally support the effectiveness of models like family group conferencing (FGC) when applied appropriately and at a suitable point. When the explicit goal of FGC is to prevent a child becoming looked after, success has been reported as high at 87%. Because the therapy offered will be broader than just FGC, a lower overall success figure of 50-60% is assumed. Moreover, it is assumed that for every successful mediation in this scenario, a single child avoids care.

**Table 31: Projected avoided costs arising from diverting children from formal kinship care**

<table>
<thead>
<tr>
<th></th>
<th>Projected numbers avoiding formal kinship care: lower</th>
<th>Projected avoided cost: lower (£)</th>
<th>Projected numbers avoiding formal kinship care: higher</th>
<th>Projected avoided cost: higher (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>53</td>
<td>476,894</td>
<td>630</td>
<td>5,668,740</td>
</tr>
<tr>
<td>2016-17</td>
<td>105</td>
<td>944,790</td>
<td>630</td>
<td>5,668,740</td>
</tr>
<tr>
<td>2017-18</td>
<td>263</td>
<td>2,366,474</td>
<td>945</td>
<td>8,503,110</td>
</tr>
<tr>
<td>2018-19</td>
<td>263</td>
<td>2,366,474</td>
<td>945</td>
<td>8,503,110</td>
</tr>
<tr>
<td>2019-20</td>
<td>263</td>
<td>2,366,474</td>
<td>945</td>
<td>8,503,110</td>
</tr>
</tbody>
</table>

*This is based on an average annual cost of £5,331 per child (based on kinship allowances, at an average of £102.52 per week); and social worker costs per child of £3,667 (as tested with a number of local authorities).

**Overall impact of duties relating to kinship care and the provision of counselling services**

143. The costs to local authorities of each of these measures have been outlined separately above.

144. Taken together, the measures relating to kinship care and the provision of counselling services are intended to be a positive incentive for kinship carers and their families to assert themselves in the solutions they face which, if left unchecked, could lead to a child becoming looked after.

145. Table 32 brings together the gross costs of support and the projected avoided costs arising from the kinship care order and the provision of counselling services in combination. The costs
have been derived from the estimated support costs, the eligible proportions of lower and upper numbers and the estimates of formal and informal carers successfully applying. The table suggests that there are net avoided future costs from the first year of implementation of the provisions and each year thereafter. The basis of this model is around preventing a child unnecessarily becoming formally looked after and the estimates used have been conservative. In addition, only direct costs have been taken into account: but there are likely to be avoided costs to the children’s hearings system and the Scottish Children’s Reporter Administration as well.

Table 32: Total costs of the kinship care provisions

<table>
<thead>
<tr>
<th>Year</th>
<th>Type of support</th>
<th>Lower estimate costs (£)</th>
<th>Upper estimate costs (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>Support to informal kinship carers</td>
<td>436,650</td>
<td>676,500</td>
</tr>
<tr>
<td></td>
<td>Support to formal kinship carers</td>
<td>613,800</td>
<td>965,250</td>
</tr>
<tr>
<td></td>
<td>Support to families with ‘at risk’ child</td>
<td>386,400</td>
<td>3,864,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total gross cost</strong></td>
<td>1,436,850</td>
<td>5,505,750</td>
</tr>
<tr>
<td></td>
<td><em><strong>Total avoided cost</strong></em></td>
<td>2,870,362</td>
<td>9,402,910</td>
</tr>
<tr>
<td></td>
<td><strong><strong>Total net cost</strong></strong></td>
<td>(1,433,512)*</td>
<td>(3,897,160)</td>
</tr>
<tr>
<td>2016-17</td>
<td>Support to informal kinship carers</td>
<td>724,070</td>
<td>1,712,675</td>
</tr>
<tr>
<td></td>
<td>Support to formal kinship carers</td>
<td>1,578,740</td>
<td>2,465,850</td>
</tr>
<tr>
<td></td>
<td>Support to families with ‘at risk’ child</td>
<td>394,800</td>
<td>3,864,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total gross cost</strong></td>
<td>2,697,610</td>
<td>8,042,525</td>
</tr>
<tr>
<td></td>
<td>*<strong>Total avoided cost</strong></td>
<td>4,957,898</td>
<td>13,631,970</td>
</tr>
<tr>
<td></td>
<td><strong><strong>Total net cost</strong></strong></td>
<td>(2,260,288)</td>
<td>(5,589,445)</td>
</tr>
<tr>
<td>2017-18</td>
<td>Support to informal kinship carers</td>
<td>797,770</td>
<td>1,891,230</td>
</tr>
<tr>
<td></td>
<td>Support to formal kinship carers</td>
<td>3,120,100</td>
<td>5,182,520</td>
</tr>
<tr>
<td></td>
<td>Support to families with ‘at risk’ child</td>
<td>1,932,000</td>
<td>5,796,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total gross cost</strong></td>
<td>5,849,870</td>
<td>12,869,750</td>
</tr>
<tr>
<td></td>
<td>*<strong>Total avoided cost</strong></td>
<td>7,657,298</td>
<td>19,030,770</td>
</tr>
<tr>
<td></td>
<td><strong><strong>Total net cost</strong></strong></td>
<td>(1,807,428)</td>
<td>(6,161,020)</td>
</tr>
<tr>
<td>2018-19</td>
<td>Support to informal kinship carers</td>
<td>823,900</td>
<td>1,996,085</td>
</tr>
<tr>
<td></td>
<td>Support to formal kinship carers</td>
<td>4,114,440</td>
<td>6,995,590</td>
</tr>
<tr>
<td></td>
<td>Support to families with ‘at risk’ child</td>
<td>1,932,000</td>
<td>5,796,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total gross cost</strong></td>
<td>6,870,340</td>
<td>14,787,675</td>
</tr>
<tr>
<td></td>
<td>*<strong>Total avoided cost</strong></td>
<td>7,819,262</td>
<td>19,345,700</td>
</tr>
<tr>
<td></td>
<td><strong><strong>Total net cost</strong></strong></td>
<td>(948,922)</td>
<td>(4,558,025)</td>
</tr>
<tr>
<td>2019-20</td>
<td>Support to informal kinship carers</td>
<td>823,900</td>
<td>1,996,085</td>
</tr>
<tr>
<td></td>
<td>Support to formal kinship carers</td>
<td>4,797,140</td>
<td>8,365,940</td>
</tr>
<tr>
<td></td>
<td>Support to families with ‘at risk’ child</td>
<td>1,932,000</td>
<td>5,796,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total gross cost</strong></td>
<td>7,553,040</td>
<td>16,158,025</td>
</tr>
<tr>
<td></td>
<td>*<strong>Total avoided cost</strong></td>
<td>7,981,226</td>
<td>19,678,626</td>
</tr>
<tr>
<td></td>
<td><strong><strong>Total net cost</strong></strong></td>
<td>(428,186)</td>
<td>(3,520,601)</td>
</tr>
</tbody>
</table>

* Bracketed numbers indicate there are net avoided costs.
** ‘Total gross cost’ is the sum of the different support costs.
*** ‘Total avoided cost’ for the lower and upper estimates have been derived from table 27 and 30
**** ‘Total net cost’ is the difference between ‘total gross cost’ and ‘total avoided cost’.
146. Consequently, for the purposes of calculating the full costs of the provisions to local authorities, we have assumed a zero direct cost arising from the support associated with the Bill. However, in recognition of the one off transition costs associated with the Bill, as outlined above, we have attributed a cost of £2.6 million in 2015-16.

**Transitional costs on local authorities**

147. There will be necessary transition costs associated with this measure for which no direct savings are attributable. These represent real up-front costs to local authorities. Assumptions are drawn from previous programmes and it is assumed that these will be a one-off set of costs in the first year of implementation.

148. Key measures include the following.

- In order to facilitate the work arising from the kinship care order, it is assumed 10 staff from each local authority on average will need to spend 2 days in further training.
- Each local authority will need to generate new information in respect of the policy both electronically and in paper form, so it is assumed that around £10,000 per authority will be required.
- Around £15,000 would be needed to promote the policy locally, based on the time needed by staff to visit kinship groups, meet with key stakeholders and service providers (such as family mediation services) and commission advertising.
- This model assumes a very significant usage of parenting capacity assessment to provide initial assistance but also to trigger further support. However, to facilitate properly an earlier intervention approach that is attractive to families and kinship carers and does not stigmatise, local authorities will likely need to develop or commission an alternative type of assessment which provides early parenting support and encouragement. Costing this is difficult but for modelling purposes it is assumed councils will need around £30,000 each to commission and test a new model.
- In addition, as part of wider joint work between the Scottish Government and local authorities, funding will be required to undertake population level surveys in each area to help analyse the medium term demand on social services. This work supports a wider programme to introduce strategic commissioning into each local authority and will help authorities map service provision on kinship (and other care placements) effectively over time.
These documents relate to the Children and Young People (Scotland) Bill (SP Bill 27) as introduced in the Scottish Parliament on 17 April 2013

Table 33: Transition costs

<table>
<thead>
<tr>
<th></th>
<th>Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Training for practitioners (2 days, 10 staff per local authority)</td>
<td>65,000</td>
</tr>
<tr>
<td>Awareness raising locally (£15,000 per local authority, on average)</td>
<td>480,000</td>
</tr>
<tr>
<td>Information: local website, training and kinship carer materials</td>
<td>320,000</td>
</tr>
<tr>
<td>Developmental and testing of early intervention, therapeutic alternative to parenting capacity assessment</td>
<td>775,000</td>
</tr>
<tr>
<td>Population research costs: survey of school children and families</td>
<td>960,000</td>
</tr>
<tr>
<td>Total cost</td>
<td>2,600,000</td>
</tr>
</tbody>
</table>

Costs on local authorities, other bodies, individuals and businesses

149. For simplicity we have identified costs to others across the two measures in combination.

150. For the purposes of modelling the impact on Scottish Legal Aid Board (SLAB), it is assumed that only one third of those who apply for the kinship care order would find sufficient support elsewhere through their own means or through legal aid. Table 34 sets out the net impact on SLAB in terms of cases linked to these measures.

Table 34: Impact on Scottish Legal Aid

<table>
<thead>
<tr>
<th>Years</th>
<th>Applications to SLAB: lower estimate</th>
<th>SLAB cost: lower estimate (£)</th>
<th>Applicatiions to SLAB: upper estimate</th>
<th>SLAB cost: upper estimate (£)</th>
<th>Average gross costs (£)</th>
<th>Average costs avoided (£)</th>
<th>Average net costs* (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-16</td>
<td>66</td>
<td>22,670</td>
<td>215</td>
<td>73,848</td>
<td>48,259</td>
<td>108,632</td>
<td>(60,373)</td>
</tr>
<tr>
<td>2016-17</td>
<td>246</td>
<td>84,496</td>
<td>685</td>
<td>235,283</td>
<td>159,889</td>
<td>192,205</td>
<td>(32,315)</td>
</tr>
<tr>
<td>2017-18</td>
<td>388</td>
<td>133,270</td>
<td>970</td>
<td>333,174</td>
<td>233,222</td>
<td>296,992</td>
<td>(63,770)</td>
</tr>
<tr>
<td>2018-19</td>
<td>406</td>
<td>139,452</td>
<td>1,005</td>
<td>345,196</td>
<td>242,324</td>
<td>303,395</td>
<td>(61,071)</td>
</tr>
<tr>
<td>2019-20</td>
<td>424</td>
<td>145,635</td>
<td>1,042</td>
<td>357,905</td>
<td>251,770</td>
<td>310,043</td>
<td>(58,273)</td>
</tr>
</tbody>
</table>

* Bracketed numbers indicate there are net avoided costs.

151. The calculation assumes that the underlying number of residence orders petitioned for each year are already supported by legal aid – approximately 200 per year. As the policy revolves around support provided by local authorities it is assumed they will support around two thirds of applicants in the first instance and SLAB will generally need to support mainly birth parents who contest such orders (assumed to be one third of all orders) and a small number of kinship carers (assumed to be 5% of those not supported by local authorities). A relatively low level of contested applications is assumed owing to the existence of intensive family therapy in this modelling which would act to reduce conflict between parties. Based on discussions between SLAB and the British Association of Adoption and Fostering it is assumed that two thirds of applicants in both groups would be eligible for legal aid. The unit cost used is £1,475 which is the median cost of legal aid for a residence order provided by SLAB.

152. We have calculated that for each kinship care order granted and each successful intensive family therapy, 1 child avoids the care system. For modelling the impact on SLAB, this means
costs avoided in respect of children’s hearings and legal actions associated with permanence. Unit costs provided by SLAB have been used and volumes drawn from Children Looked After Statistics and SLAB data. The net effect is a small annual avoided cost to SLAB of around £50-60,000 a year.

**Section 68 – Putting Scotland’s Adoption Register on a statutory footing**

153. There will be a requirement for local authorities and registered adoption services to provide specified information to the Register so that there is a list of prospective adopters and children in respect of which no match has been made.

154. Two thirds of local authorities and 3 registered adoption services are already using the Register.

**Costs on the Scottish Administration**

155. The Government has committed to an additional 2 years funding for 2013-15 of £90,000, to provide for the remaining local authorities to register.

156. There will be no additional costs to the Scottish Administration, as a specific budget has already been committed to.

**Costs on local authorities, other bodies, individuals and businesses.**

157. The provisions allow for Scottish Ministers to charge fees for transactions that occur in relation to the Adoption Register. The intention at present is that these charges are not applied, and for that reason there will be no additional cost to local authorities, other bodies, individuals and businesses.

**OTHER PROPOSALS**

**Sections 69 - 70 – National Convener and Children’s Hearings**

158. The Bill will require local authorities to assist the National Convener, which in practical terms will be delivered through their contributions to AST’s which will provide support to the children’s panel. It will also relieve the National Convener of the obligation to obtain the consent of each constituent authority before establishing or re-establishing area support teams to support the national children’s panel. Instead, the National Convener’s duty in this respect will be limited to a requirement to consult with each constituent local authority before requiring the merger or reconstitution of existing AST’s in 2014 or beyond.

159. The provisions in the Children’s Hearings (Scotland) Act 2011 are not considered sufficient to require all local authorities to deliver on assisting the National Convener, although many local authorities do provide this assistance as part of their AST agreement.
Costs on the Scottish Administration

160. The proposed provisions puts the arrangements that are already in place on a statutory footing and introduces nothing new, so no additional costs are anticipated.

Costs on local authorities, other bodies, individuals and businesses.

161. This provision will not result in any additional costs on other organisations.

Section 71 – Secure accommodation

162. The proposal establishes a right of appeal to the sheriff against the decision by a chief social work officer of a local authority to place a child in secure accommodation following an order under section 44 of the Criminal Procedure (Scotland) Act 1995 to detain a child in residential accommodation.

Costs on the Scottish Administration

163. The provisions will not result in any additional costs to the Scottish Administration.

Costs on local authorities, other bodies, individuals and businesses.

164. This provision will not result in any additional costs on other organisations.

Section 72 – Amendment to the Schools (Consultation) (Scotland) Act 2010

165. The Bill amends the Schools (Consultation) (Scotland) Act 2010 by making minor changes to the procedure relating to call in by the Scottish Ministers of school closure proposals.

Costs on the Scottish Administration

166. The changes make a slight increase to the time available for Ministers to consider representations in relation to a closure proposal – from 6 to 8 weeks. A small extension to this period would reduce the likelihood of unnecessary call ins by allowing better consideration of representations received in the first 3 weeks of this period. These changes should have no financial impact.

Costs on local authorities, other bodies, individuals and businesses.

167. This provision will not result in any additional costs on other organisations.

Section 73 – Defining ‘wellbeing’ around the SHANNARI structure

Costs on the Scottish Administration, local authorities, other bodies, individuals and businesses.

168. There will be no cost in implementing this provision, as it is creating a definition in legislation.
Section 76 – Modification of Enactments – Reversing the Repeal of Section 44 of the Children (Scotland) Act 1995

169. Schedule 6 of the Childrens Hearings (Scotland) Act 2011 repealed section 44 of the Children (Scotland) Act 1995 in its entirety, and this provision reverses this unintended repeal.

Costs on the Scottish Administration, local authorities, other bodies, individuals and businesses.

170. There are no costs associated with this provision.
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 17 April 2013, the Cabinet Secretary for Health and Wellbeing (Alex Neil MSP) made the following statement:

“In my view, the provisions of the Children and Young People (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 17 April 2013, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Children and Young People (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)