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Stuart McMillan MSP
Convener
Delegated Powers and Law Reform Committee

By Email: DPLR.Committee@parliament.scot

23 September 2025

Dear Convener,

Thank you for your letter of 10 September 2025 about the Delegated Powers Memorandum for the Children (Care, Care Experience and Services Planning) (Scotland) Bill. I am pleased to provide the answers below to your questions.

In relation to your question on Section 4: Advocacy Services for Care-Experienced Persons, it is intended that the regulation making power in relation to Section 4(6) of the Bill will be exercised to set out additional descriptions of care experience to those included in the Bill.

Prior to exercising the power, the Scottish Ministers are required to consult people with experience of care, people representing those with experience of care and anyone else considered appropriate. This consultation will inform how the power is exercised and any additional descriptions of care experienced persons who are entitled to access advocacy support.

While the descriptions of care experience that will be set out in regulations are subject to what is heard through the consultation, this could include people who were not formally 'looked after' but were subject to other care arrangements where there was some involvement with the local authority such as non-looked after kinship care.

It is highlighted that the power could be used to limit the circumstances in which the right to access advocacy services could be exercised. Examples of how this could be used include where a person was in care for a very short period of time. However, any use of the power for this purpose would be very carefully considered and informed by consultation.

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It is intended that, subject to not cutting across existing rights and entitlements to advocacy support, eligibility for care experience advocacy services will be broad and inclusive.

Exercising this power will also be aligned with work to implement Section 5 (Guidance in relation to care experience) of the Bill. It is intended that this guidance will include a universal definition of the term 'care experience' and that this will also inform the development of future regulations in relation to eligibility to access advocacy services and the parameters of that.

It is recognised that the existing advocacy landscape is complex and that there are existing rights and entitlement set out in existing legislation. Careful consideration is being given whilst considering how these powers are exercised to avoid duplication of support and ensure that the right support is available at different points during a person's journey through care.

In relation to your question on Section 11: Single member children's hearings and pre-hearing panels, in exercise of their powers under section 177(2)(a) of the Children's Hearings (Scotland) Act 2011, Ministers have specified which decisions can be taken by a pre-hearing panel in the current Rules of Procedure 2013 ("the rules"). The Bill proposes giving Ministers a new power to specify whether a matter, that may be determined by a pre-hearing panel, may be determined by a PHP consisting of one member. The policy position is that the decisions currently taken by a PHP should be taken by a single member panel however, officials are undertaking further work with stakeholders to ensure that the mechanisms which exist are well understood.

For example, under the current rules a pre-hearing panel may determine whether someone, on application, should be deemed a relevant person to the child at the centre of the hearing. This is a factual test, well understood by panel members and practitioners within the children's hearings system. The policy intention is to amend the current rules to allow the single panel member to take decisions on, for example, excusal and/or attendance at a meeting depending on the circumstances; to enable a child to participate effectively in proceedings by establishing whether a solicitor is required; and whether a Safeguarder requires to be appointed.

These decisions are currently taken by a lay panel of three volunteer tribunal members. The single panel member will be, per new section 6A(2)(b) (inserted by section 11(7) of the Bill), a Chairing Member who will be qualified and trained to a standard deemed appropriate by the National Convener. The training and recruitment of panel members is a function of the National Convener, independent of Scottish Ministers.

The child and relevant persons retain their right to attend these hearings (unless the relevant person is excluded) and the Chairing member will have recourse to request a full three member panel to take the decision if they consider that a full hearing is a more appropriate forum. The intention is that this will be provided for in rules, rather than primary legislation.

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On your final point in relation to the omission of the commencement powers at section 25 of the Delegated Powers Memorandum, I wrote to the committee on 4 September with details of the commencement power and corrections to inaccuracies that were identified. A link to this letter can be found [here](#) for your convenience.

Yours sincerely,



Natalie Don-Innes MSP
Minister for Children, Young People and The Promise

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