

Accessible summary on the Stage 1 report on the Children (Care, Care Experience and Services Planning) (Scotland) Bill

This summary is designed to be an accessible summary of the Committee's Stage 1 report on the Children (Care, Care Experience and Services Planning) (Scotland) Bill. It covers the key areas of evidence raised with the Committee and provides a summary of its main recommendations.

A [full version of the report is available on the Committee's website](#).

Background to the Bill

The Bill suggests changes to the services and support provided to people in the children's care system, or who have ever had experience of that system. Those changes include:

- giving people who left the care system before their 16th birthday the right to apply for aftercare
- requiring Scottish Ministers to ensure care experienced people have access to advocacy services
- requiring Scottish Ministers to publish guidance which promotes understanding of "care" and "care experience"
- giving Scottish Ministers powers to make regulations to limit the profits that can be made from children's residential care
- requiring fostering services to register as charities
- giving Scottish Ministers the power to create a register of foster carers
- making changes to the children's hearings system.
- The Bill also sets out that integration joint boards are responsible for children's services planning, alongside local authorities and health boards.

If you want to more about the Bill, read the [briefing written by the Scottish Parliament Information Centre \(SPICe\)](#).

Evidence and Recommendations

Aftercare

The Bill says the law should change so more young people can get aftercare support.

Aftercare means support young people get when they leave the care system. Aftercare support might be things like advice or money or help to find a young person a home or to pay for a training course.

The Committee **heard** that:

- Offering aftercare to those who left care before they were 16 years old is a good thing to do.
- The current aftercare system means that many care experienced people miss out on the support they need.
- The amount of aftercare support received, can depend on where the young person lives.
- The way in which aftercare is extended by the Bill might cause problems for some young people. This is because those leaving care before 16 would have to apply for an assessment to access aftercare. This is different to the current arrangements for some 16-19 year olds leaving care after 16.
- Some people were worried that young people might not know how to ask for an aftercare assessment.
- Others suggested it might be difficult for young people to prove they were care experienced. If they asked their local council for proof, there was also a risk they might be sent their full care records before they were ready.
- If the proposals to extend aftercare to those leaving care before 16 are to work, then there needs to be more staff and money provided to meet demand. Not everyone thought that the money set aside in the Bill was enough.
- The aftercare sections of the Bill won't be covered by the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. This means that children and young people may find it harder to challenge decisions that they think are unfair.

The Committee **recommended** that:

- The Scottish Government needs to make sure there are enough staff in council social work teams to help young people and adults, as well as enough money to provide the support that's needed.
- The Scottish Government should do more work to make sure the estimated costs set out in the Bill are accurate.
- There should be clear information provided to help all care experienced people understand their rights to aftercare.
- The Scottish Government should be clear about who is responsible for delivering aftercare and make sure that services have enough staff to help care experienced young people and adults.

- The Committee said that the aftercare sections of the Bill should be rewritten to make sure young people can use the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 to challenge any decisions that might breach their rights.
- There might be a better word to use than 'aftercare' to describe the support provided to care experienced young people and adults. The Scottish Government should think about what this might be.

Corporate Parenting

Corporate parenting means the support that public bodies like councils, health boards and others provide to ensure that care experienced people's wellbeing is protected and that they receive the same support and opportunities as any good parent would provide.

The Bill expands corporate parenting duties so they apply to all care experienced people (including those who left care before 16) up until the age of 26.

The Committee **heard** that:

- Some people were not sure why the Scottish Government wanted to expand corporate parenting duties. Others thought that it made sense to do so, as aftercare support was also being expanded.
- Some people felt that their corporate parents were doing a good job supporting care experienced children and young people. Others thought they could do better.
- There was a suggestion that the Bill was an opportunity for corporate parents to look back on the work they had done so far. This would help them understand to what was working well, and what could work better in future.
- Some people said that the Bill should go further and extend corporate parenting duties towards care experienced people for their whole lives. Others said that some people might not want to have a corporate parent in their life, particularly if they left care a long time ago.
- Others were concerned that the Scottish Government had not budgeted enough money to pay for the expansion of corporate parenting.

The Committee **said** that:

- It would be helpful to develop more information to help corporate parents understand and maximise the support they provide to care experienced children, young people and adults.

- The Scottish Government should consider whether corporate parents should be required to regularly undertake training to help them better understand their role.
- Whilst it recognised that the impact of care experience is life-long, the Committee agreed with the Bill's suggestion that corporate parenting duties should only apply up to the age of 26.

Advocacy

Advocacy is when someone else speaks up for you. They help explain what you think or what you want to other people.

Independent advocacy means the person who speaks up for you does not say what they think or try to make you think a certain way.

The Bill says that everyone with care experience should have a right to independent advocacy.

The Committee **heard** that:

- People were supportive of having life-long care experienced advocacy.
- More detail about how care experienced people could access advocacy services is required, recognising that this may be different depending on their age.
- Care experienced advocacy should be independent. Many people thought that a definition of “independent advocacy” should be written into the Bill.
- Non-independent advocacy could also be helpful in some circumstances, e.g. when people like teachers, social workers or family members. This support can be very helpful, but it should not replace independent advocacy.
- Advocacy should be relationships-based, so that a care experienced child, young person or adult has the chance to get to know and trust their advocate.
- Sometimes it can be hard to get the advocacy support care experienced people need. This is because services are not the same across Scotland.
- This needs to be sorted out before life-long care experienced advocacy is introduced.
- Advocacy also needs to be properly resourced, so that care experienced people can access support when they need it.
- People had different views about whether care experienced advocacy should be opt-in (where the care experienced person has to ask for advocacy support) or opt-out (where advocacy support is automatically offered – but the person can still turn this down).

The Committee **recommended** that:

- A definition of 'Independent Advocacy' should be included in the Bill.
- The Scottish Government should make clear who will qualify for life-long advocacy and for which purposes.
- Advocacy should be easy to access, relationships-based and able to meet the needs of all care experienced people.
- People should be able to use their advocate to help them access support across lots of areas (e.g. housing, mental health). Care experienced advocacy should be flexible enough to fit around these needs.
- Advocacy support in the Children's Hearings System should be delivered alongside legal representation, not be a replacement for it.
- The Scottish Government should develop a straightforward system to help care experienced people prove their care identity.
- Advocacy should be offered on an opt-out basis within the Children's Hearings System. This is because some decisions made by a Children's Hearing can significantly impact on a child or a young person's life.
- Advocacy should be offered on an opt-in basis for all other situations.

Guidance in Relation to Care Experience

The Bill says the Scottish Government should give guidance to people and organisations who work with people with care experience.

The guidance should help people and organisations meet the aims in the Promise.

At the moment, different organisations have different ways to decide if a person has care experience. This means some people do not get the support they need.

The Bill says that if there is good guidance, it will make it clearer who has care experience. This will help the right people get the support they need.

The Committee **heard** that:

- Some people were disappointed that a definition of care experience had not been included in the Bill. Others recognised that there were lots of different views about what 'care experience' meant.
- Some suggested that the definition of "looked after" in the current law should be what is used to define care experience.
- Many felt that guidance could help people understand care experienced people's experiences, improve the language of care and could help reduce stigma.

- Some were worried that the Bill was asking public bodies to identify care experienced people living in their area. They said that this would risk invading care experienced people's privacy and that bit of the Bill should be changed.

The Committee **recommended** that:

- The Scottish Government should consider developing regulations (a piece of secondary legislation) that define care experience.
- The care community should be fully involved in creating these regulations. The Scottish Government should provide clear timescales for when the regulations will be produced.
- The Scottish Government should read the evidence the Committee heard about identifying care experienced people and think about whether this part of the Bill needs to be changed.
- Whilst the focus of the guidance on the language of care is helpful, the Scottish Government could go further in reducing stigma, by looking at certain legal terms (e.g. "looked after").

Profit in Residential Care

Children's residential care is there to provide a safe place to live for children and young people when they need it. This might be needed because of a family emergency or a decision made by a Children's Hearing.

Children's residential care homes can be run by local authorities, the third sector or private organisations.

The Promise says that money should not be made from providing safe places to live for children in the care system.

The Bill says that the Scottish Government should be able to make new rules to limit the amount of money being made by these organisations. If the Scottish Government finds some organisations are making too much money, the Bill says more rules should then be made to put a limit in place.

The Committee **heard** that:

- There was support for tackling the issue of profit in residential care. However, many people wanted more detail about how this would be done as the Bill does not set this out.
- It was important for the Scottish Government to be clear about what "excessive profit" meant. Many people said that "profit" was different to "surplus", which was money that was reinvested into services.
- Some people were worried that the proposals in the Bill might mean residential care providers close or switch to providing different types of care.

- It would be particularly difficult if specialist services closed (e.g. for people with complex needs) as these could not easily be delivered by local councils.

The Committee **recommended** that:

- More work should have been done before the Bill was introduced to the Parliament to set out exactly how the Scottish Government plans to tackle profit in residential care.
- The Scottish Government should tell the Committee how it plans to manage any risks associated with tackling profit via the Bill. This includes the potential for services to close.
- This might also include considering whether there should be more services offered by local authorities.

Fostering Services to be Charities

The Bill also says that Independent Fostering Agencies (IFAs) - organisations that help find foster carers for children and young people – should become charities. This will mean that IFAs will have to stick to rules about how they can spend their money.

The Committee **heard** that:

- Most people were supportive of Independent Fostering Agencies becoming charities, as long as this change was managed well and they had enough time to make the change, without disrupting services.

The Committee **recommended** that:

- The Scottish Government should tell the Committee how it planned to make sure services could continue to run, when Independent Fostering Agencies were becoming charities.
- The Scottish Government should provide further information about the impact of these changes on Independent Fostering Agencies registered in England, but placing children and young people in Scotland.

Register of Foster Carers

The Bill also says that a national register of foster carers should be made. This would list all of the people in Scotland approved as foster carers for children and young people. It would also list people who have been told they cannot be foster carers, giving local authorities this information at a national level for the first time.

The Committee **heard** that:

- People had different views about whether a register of foster carers should be created. Some people were worried a register would collect the same information that was already collected elsewhere.

- Many people felt the register could be helpful in keeping children and young people safe. This could include flagging where a foster carer had been de-registered in a different area or where there had been a serious complaint made.
- Some people said that a register might help match children and young people to available foster families. Others were not convinced of this.
- A key concern was that using a register to improve matching might lead to care experienced children and young people being placed outside their local area, something that was not in keeping with the Promise.
- Some people were also worried that some foster carers might stop fostering if they were asked to join a register. As there are already not enough foster carers in Scotland, this could be problematic.
- Many people had questions about how the register would work in practice, including what might happen if someone refused to register.

The Committee **recommended** that:

- A register of foster carers should go ahead, but that it needs to be clearer what the purpose of the register will be, what information will be included and who would update it.
- The register should be developed with foster carers, to make sure that the right kind of information is collected. This should also help avoid people having to provide the same information to different people.
- The Scottish Government should look at the evidence the Committee received about whether a register could include only de-registered foster carers (rather than all foster carers).

Children's Hearings

Children's Hearings are a type of legal meeting in Scotland where official decisions are made about children and young people who need care and protection. The Children's Hearings System also supports children and young people when they have committed a crime. Committing a crime means you have done something that breaks the law.

The Bill says that some types of Children's Hearing should only have one person on the panel, instead of three people. A panel is a small group of people chosen to do a certain thing, like give advice or make a decision about something.

Single Member Panels

The Committee **heard** that:

- Not everyone agreed on the type of decisions that single member panels (where there is only the Chair and no other panel members) should be

allowed to make. Some people felt uncomfortable about decisions that could have a significant impact on children and young people's lives being taken by only one panel member (e.g. making an Interim Compulsory Supervision Order).

- Some people thought single member panels might reduce delays in the Children's Hearings System, by speeding up procedural decisions. Others thought there was a risk that they might cause more delays.
- Some people felt that the current panel of three members was fairer and led to more balanced decisions being made.

The Committee **recommended** that:

There should always be a three member panel when major decisions are being made by a Children's Hearing.

- The Committee was undecided about whether single member panels should be able to make Interim Compulsory Supervisions Orders.
- The Scottish Government should look at the evidence the Committee received regarding single member panels and respond to the Committee before the next stage in the Parliamentary process.

Paid Chairs

The Bill says some people who are on panels for Children's Hearings should be paid. This might be people like the Chair or experts.

The Committee **heard** that:

- Many people supported the idea of creating paid Chairs (Chairing Members) within the Children's Hearings System.
- Care experienced children and young people wanted to have the same Chair at each Hearing. This would make sure they had someone who was familiar with their case each time.
- Many people said that having a paid Chair role could help make that happen.

The Committee **recommended** that:

- There should be paid Chairs within the Children's Hearings System.
- The Scottish Government should look at how having paid Chairs could help create the consistency that care experienced children and young people have said they would welcome.

Specialist panel members

The Committee **heard** that:

- Some people struggled to see the value in having paid specialist panel members. This was because the Children's Hearing can already ask for input from specialists, e.g. in education, healthcare or social work.
- Children and young people coming to a Children's Hearing often have several issues they are dealing with. Some people said that having a specialist panel member who could deal with only one of those issues, (e.g. mental health) might mean that a Hearing is skewed towards that issue alone. This might mean that other issues are not addressed.
- Some people were worried that having a paid Chair and a paid specialist member sitting, might make it harder for a volunteer member to feel they could speak up.
- The Bill wasn't clear about the types of situation when a specialist member could be used. It also wasn't clear about the types of qualification they might be expected to have.

The Committee **recommended** that:

- The Scottish Government provide more detail about:
 - What specialist panel members would do;
 - How they would be recruited;
 - When a specialist panel member may be used in a Children's Hearing and who would decide when a specialist panel member was needed;
 - How it would avoid any power imbalances created by having a volunteer panel member alongside a paid Chair and paid specialist panel member;
 - When specialist panel members might be introduced to the Children's Hearings System.

Children and Young People's Attendance at a Children's Hearing

The Bill says children and young people who have not committed a crime should not always have to go to every Children's Hearing that happens about them.

If they have committed a crime, they might have to go.

The Committee **heard** that:

- Removing the obligation for children and young people to attend their Hearing, was a good suggestion, as long as they still had the chance to be heard.
- Many people said that there should still be a presumption that children and young people would attend, other than babies and very young children.
- The Bill suggests some children and young people might still be required to come to their Hearing, even when they don't want to. This might include children and young people referred on offence grounds or those at risk of being deprived of their liberty (e.g. sent to secure accommodation).
- Others suggested that, in those circumstances, it was right that some children and young people should have to come to a Hearing. This would help ensure that their rights were protected.
- Others said that there should be a range of ways to seek and include children and young people's views in a Hearing.

The Committee **recommended** that:

- There should be a presumption that children and young people attend their Hearing, unless they are babies or very young children.
- The Scottish Government should look at different ways to ensure children and young people's views are taken into account, particularly when they are not attending a Hearing.
- The Scottish Government should provide further information about when a child or young person might still be required to attend a Hearing.
- The Scottish Government should be clear about what would happen if a child or a young person was told they had to attend a Hearing, but did not go along.

Post-referral Discussions

The Committee **heard** that:

- The proposals in the Bill about the post-referral discussion are different to those recommended by the Hearings System Working Group in the "Hearings for Children" report.

- The ‘Hearings for Children’ report suggested that children and young people should be able to meet with the Chair of their Hearing before the Hearing itself. The Bill says that, instead, children and young people should meet with the Principal Reporter.
- The types of information that will be discussed at these meetings is also different.
- Some people warned that children and young people might incriminate themselves (e.g. admit to a crime) without realising, if they spoke to the Principal Reporter about grounds.
- Others flagged that a post-referral discussion might cause more delays in the system, particularly if different meetings had to be organised for different family members.

The Committee **recommended** that:

- The post-referral discussion should be closer to what the “Hearings for Children” report recommended. That is, it should be a chance for children and young people to meet with the Chair before their Hearing takes place. The meeting should focus on the needs of the child or the young person (e.g. what they would need to fully participate in their Hearing).
- The Scottish Government should look again at the proposals for post-referral discussions, in light of the evidence the Committee heard.

Grounds Hearings

The Committee **heard** that:

- The “Hearings for Children” report said that grounds hearings could be very damaging to children and young people and recommended they should be removed.
- The proposals in the Bill, however, don’t do that. Many people said that they actually make the process for agreeing the grounds of referral more complicated.

The Committee **recommended** that:

- The Scottish Government revisit these proposals to see if the process for agreeing grounds could be made more straightforward and minimise any distress for children and young people.

Relevant Person

The Bill says there should be a way to stop a parent or a person who looks after a child from being involved in Children’s Hearings about the child. This might happen if it could be harmful to the child for them to be there, for example, if they have hurt the child in the past.

The Committee **heard** that:

- The Bill allows for someone's (e.g. a parent's) automatic relevant person status to be removed in certain circumstances. This might include an abusive parent being prevented from going along to a Hearing, to avoid distressing the child or young person.
- Some people said it was important to make sure that the process for doing this was fair. This included having a right to appeal a decision to remove someone's automatic relevant person status.
- Others said that it was important to be clear about when this process might be used. They also recognised that people might make different decisions, depending on their view of how distressed a child or young person might be.
- Others asked why a decision to remove someone's automatic relevant person status would only apply for one referral. If the child or young person was referred to the Hearing in future, they would have to go through the same process again.

The Committee **recommended** that:

- The proposals in the Bill around the removal of automatic relevant person status should go ahead.
- Guidance should be created to help make sure everyone has the same understanding of when a child or young person is likely to experience significant distress.
- The Scottish Government should think about whether there could be a way to avoid going through this process each time a new referral is made to the Children's Hearings System.
- There should also be safeguards put in place to make sure that an automatic relevant person can appeal any decision they think is unfair.

Proposed Changes to Referral Criteria

The Committee **heard** that:

- Changing the threshold for referring someone to the Children's Hearings System from "might be necessary" to "is likely to be needed" could reduce the number of children and young people being inappropriately referred to the Children's Hearings System.
- However, others felt that this would mean that agencies would be more reluctant to make a referral to the Children's Hearings System. As a result, some children and young people might miss out on the support they need.
- Many people welcomed the fact that "support" was added to into the list of referral criteria, but said that "treatment and control" should be removed.

The Committee **recommended** that:

- The Scottish Government look at the risks the Committee heard in evidence of fewer referrals being made to the Children's Hearings System. It should clearly set out how it plans to tackle these.
- The Scottish Government should work towards removing the words "treatment and control" from the referral criteria.
- The Scottish Government update the Committee on work to modernise language within the Children's Hearings system.

Children's Services Planning

This part of the Bill looks at how children's services are planned. It brings together local authorities, health boards and planning bodies called 'Integration Joint Boards', to create 'lead children's services planning bodies.' The idea behind this is to make it easier to plan children's health and care services for an area.

The Committee **heard** that:

- Many people didn't understand the purpose of the changes in the Children's Services Planning section of the Bill, and what benefits they would bring.
- Some people did think that the changes could help improve planning. Others felt it might help make transitions between children and adult services work better.
- Some people suggested that there were lots of current plans and reports collecting the same type of information. They said that the Bill was an opportunity to try and streamline these plans.

The Committee **recommended** that:

- The Scottish Government should provide more information about what it hopes to achieve with the Children's Services Planning proposals in the Bill, including what added value this might bring.
- The Scottish Government should consider streamlining existing children's services planning processes.
- It should also look at whether there are opportunities to improve data collection, making transitions into adult services smoother and make sure that children's services planning includes the needs of all children and young people.

Costs

The Committee **heard** that:

- Some people said that the Scottish Government could have done more to speak to people about what will be needed to deliver the changes suggested in the Bill (for example, speaking to local councils about extra costs for aftercare) before the Bill was introduced to Parliament. This would have helped make sure that the Scottish Government had a better understanding of how many people were likely to want to access aftercare. It would have also helped make sure that the costs and other resources needed (e.g. extra staff) could have been estimated more accurately.

The Committee **recommended** that:

- In future, the Scottish Government should think about how best to work with the organisations responsible for delivering the Bill. This will help everyone form a clearer picture of what resources are needed to make aftercare possible.

UNCRC

The Committee **heard** that:

- Because of the way the Bill had been written, young people would not be able to challenge certain decisions by using the UNCRC (Incorporation) (Scotland) Act 2024. This was because the sections of the Bill which extend aftercare and create a register of foster carers change a law that was created before the Scottish Parliament.
- Many people told the Committee that the Scottish Government should make changes to the Bill to make sure that young people could use the UNCRC (Incorporation) (Scotland) Act 2024 to try and challenge any decisions they thought were unfair.

The Committee **recommended** that:

- The Scottish Government should try to find a way to re-write the sections of the Bill on aftercare and the register of foster carers, so that young people can use the UNCRC (Incorporation) (Scotland) Act 2024 to complain if they need to.
- There should also be a clear complaints processes put in place for care experienced young people and adults, aged 18+, who wouldn't be able to use the 2024 Act (because it only applies to thing that happened up until the age of 18).

What is not included in the Bill

The Committee **heard** that:

- There were some areas that the Bill didn't cover that people would have liked to have been included.
- For example, the Bill could have looked at legislation and policy more widely in relation to care experienced children, young people and adults, to try and make sure it was more consistent. This is because the law has been built up over many years and it is currently difficult for care experienced people and those supporting them to navigate.
- The Bill could have provided an opportunity to communicate with care experienced children, young people and adults about the progress that has been made to date in fulfilling the Promise.
- The Bill could have looked at potential improvements to early intervention, including in relation to Family Group Decision Making.
- Others felt that the Bill could have extended continuing care and made improvements to improve support to kinship carers.

The Committee **recommended** that:

- The Scottish Government feed back its views on what people said was missing from the Bill.
- The Scottish Government provide further information to the Committee about plans for any future legislation to help fulfil the Promise by 2030.