

Minister for Children, Young People and Keeping the Promise
Ministear airson Clann, Daoine Òga is Cumail ris a' Ghealladh
Natalie Don MSP
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Sue Webber MSP
Convener
Education, Children and Young People Committee
The Scottish Parliament
Edinburgh
EH99 1SP

21 November 2023

Dear Convener,

Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

I am writing to provide the Scottish Government response to the Education, Children and Young People's Committee Stage 1 Report on the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. I would firstly like to thank you and the members of the Education, Children and Young People Committee for your thorough consideration of the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, and for the comprehensive Stage 1 report. I welcome the Committee's continued commitment to monitoring the work of the Strategic Working Group, and its scrutiny of the National Transitions to Adulthood Strategy and I will ensure that I update you with developments to facilitate this.

I would also like to once again express my gratitude to Pam Duncan-Glancy MSP for the focus that she has brought to this important issue through her introduction of this Bill. I remain committed to working with Pam Duncan-Glancy MSP to support the development of the National Transitions to Adulthood Strategy, and look forward to further engagement with her to identify collective solutions to improve transitions to adulthood for disabled young people in Scotland.

The Scottish Government shares Pam Duncan-Glancy MSP's ambitions in seeking to improve transitions for disabled children and young people. However, we recognise many of the concerns that you have highlighted in your Stage 1 report about how this Bill would work in practice. Given the Committee's findings, that it is not convinced that the Bill will resolve the issues being experienced by young people, and that several stakeholders have expressed concerns about how the Bill would work in practice, the Scottish Government agrees with the Committee and so is unable to support the Bill at the Stage 1 vote.

We do though recognise some of the issues facing disabled young people which the Committee have raised, and we are determined to take action. In addition to the detailed

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response I provided on 11 August 2023 to the Committee's correspondence and findings on the Bill (Annex A and B of the Committee's Stage 1 Report), I would like to take this opportunity to update on some of this work and respond to the Committee's Stage 1 overall conclusions:

The Committee remains extremely concerned by the evidence it heard about the poor experiences of transitions for many disabled young people. Several witnesses told the Committee that young people and their families were not always listened to by professionals, that there was a disconnect between children's and adult services with poor communication across agencies and with young people and their families, and often, there was no clear person to take the lead on transitions, leading to parents and young people having to advocate for themselves. The Committee recognises the need to act on these issues to improve disabled children and young people's experiences of transitions.

The Scottish Government is committed to improving the lived experience of transitions for disabled young people, and I hope that my previous correspondence of 11 August 2023, and the updates in this response, provide reassurance of the importance we attach to this. As you know, a vital part of our work to ensure there is a joined-up approach so all disabled young people can experience a supported and positive transition to adult life, is our Programme for Government commitment to introduce Scotland's first National Transitions to Adulthood Strategy in this parliamentary term.

On 28 September 2023 we published our [Statement of Intent](#), including in a range of accessible formats. This Statement of Intent sets out the proposed vision, scope and priorities for the strategy. These are based on what we have heard a strategy should focus on, through our research and engagement to date, to improve the lived experiences of Scotland's disabled young people as they make the transition to adulthood. The concerns you have heard through your consideration closely mirror those we found through our own engagement and research. We have set these out in the Statement of Intent.

Accompanying the published Statement of Intent is an online [survey](#) which will remain open until 30 November 2023. This survey, in addition to a range of in-person engagement events, presents an opportunity for us to sense-check what we have heard to date with more young people, parent carers and others with a role or interest in transitions. Findings from this phase of engagement will be used to draft the strategy which we aim to consult on more widely in Spring 2024.

More broadly, as the Committee is aware, Getting it right for every child (GIRFEC) provides a framework to ensure that everyone in Scotland can work together to support children and young people to grow up feeling loved, safe and respected so they reach their full potential. GIRFEC policy and guidance recognises that well planned and supported transitions are key for children and young people.

The non-statutory GIRFEC child's plan remains an important element in how children's and related services can work in a co-ordinated way to support the wellbeing of children, young people and their families. The child's plan should be used to support quality transitions by enabling those involved to effectively plan for changes together, and in time, to ensure co-ordination and continuity of support. Effective transfer of information between services during transitions, in line with information sharing guidance, is also essential to achieving successful outcomes for the child or young person and their family. We published our [Getting It Right for](#)

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[Every Child \(GIRFEC\): child's plan- practice statement](#) on 25 October 2023. This includes a dedicated section on transitions which highlights that particular consideration should be given to disabled young people in their transition to adulthood.

Building on GIRFEC best practice, the Scottish Government is also currently co-designing Getting It Right For Everyone (GIRFE) with place-based pathfinder teams across Scotland for people from young adulthood to end of life care. Throughout the co-design process our eight place-based pathfinders are listening to people with lived experience, focusing on people in addiction services, people in prisons, older people, people registered at GP Practices experiencing the highest levels of socioeconomic deprivation, and young people in transition from GIRFEC to GIRFE and/or families with complex needs.

Person-centred journey maps have now been submitted to the GIRFE design process by the pathfinder teams. These include insights around transitions which again highlight a need for improved joined-up working and information sharing between children's and adult services to avoid a 'cliff-edge' for young people. Through a sensemaking process, these cross-cutting insights have been identified and are being taken forward in the ideation process of co-design.

The Scottish Government, through GIRFEC and GIRFE, is committed to improving transitions between children's and adult's services for disabled children young people.

The Committee notes that there is already legislative and policy provision in this space and that it has not always had the impact that was envisioned. The current legislative landscape was described by many witnesses as being complex, cluttered, and difficult to navigate for young people and their families, and, in some instances, for the professionals working to support them. Several stakeholders highlighted the poor deployment of Coordinated Support Plans (CSPs) by local authorities despite these being statutory plans.

We have previously raised concerns about the duplication and overlap of key aspects of existing legislation and the additional complexity and confusion that this Member's Bill could bring to disabled young people and their families, as well as to professionals trying to navigate this landscape.

Our published Statement of Intent recognises the feedback about the complexity of the current landscape, and proposes a strategy which is interdependent with – and seeks to better co-ordinate and complement - the existing landscape, in order that support and guidance for disabled young people and their families is joined-up. Work is already underway to progress this. For example an internal cross-policy working group of officials has been established to facilitate greater communication, maximise synergies, and identify opportunities to improve co-ordination of the breadth of work across the number of Ministerial portfolios within Scottish Government which contribute to improving outcomes for disabled young people as they transition to young adult life.

As the Committee is aware, the Scottish Government is working in partnership with local government to improve the learning experiences of children and young people with additional support needs. The joint Scottish Government and COSLA additional support for learning (ASL) action plan is focussed on improving the implementation of the existing policy and legislative framework, including those in relation to transitions. As part of this work, we are considering the findings of the ARC Scotland Principles into Practice trial in relation to

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our planned update of the statutory code of practice guidance on additional support for learning. The ASL action plan also includes actions relating to the proactive provision of advice and support to families on additional support for learning.

The Scottish Government is also working with local government partners on the Additional Support for Learning Project Board to deliver the recommendations of the 2020 additional support for learning review by March 2026. As outlined in our updated action plan published in November 2022, we are committed to enhancing implementation of additional support for learning, including co-ordinated support plans. This work is being considered as part of the review of the statutory guidance on additional support for learning, which is already underway. We welcome the Committee's detailed consideration of the Bill's proposals and its conclusions which will help inform that work. Further progress is due to be reported in May 2024.

The Committee heard that there was an “implementation gap” with existing legislation and policies owing to issues relating to resources, inconsistent practice and access to services across Scotland, organisational cultures, particularly the differences between children’s and adult services, and difficulties with information sharing. For that reason, the Committee has carefully examined the Bill and is not currently convinced that the Bill before it will resolve the issues being experienced by young people. The Committee recognises, however, the important role that the Bill has played to date in shining a light on these issues and the impact they are currently having on disabled children and young people and their families.

We agree with the Committee that the Bill has played an important role in shining a light on the issues that disabled children and young people and their families face, and wish to reiterate our thanks to the Member in charge for her role in this.

The Committee heard through its evidence gathering that we have provided support to the Association for Real Change (ARC) Scotland between 2020-2023 to trial Principles into Practice in 10 local authority areas, and I am delighted that the Scottish Government will continue to provide funding to ARC Scotland until 2025, through the Children, Young People, Families and Adult Learning Third Sector Fund, to spread the good practice borne of the trials across more local authorities in Scotland.

We hope that this will help to further embed the widely-endorsed Principles of Good Transitions in policy, planning and practice and, by doing so, promote a more consistent framework of standards to inform, structure and encourage the continual improvement of support for young people with additional needs between the ages of 14 and 25 who are making the transition to young adult life.

This ambition is also reflected in the Statement of Intent, which recognises the importance of ‘consistency of practice and support across Scotland’ as one proposed priority for the strategy. The Statement of Intent also proposes the strategy prioritises ‘co-ordination of individual support and communication across sectors’ which involves improved communication across all partners involved in transitions – including disabled young people and their families – with clearly defined roles and responsibilities to facilitate smoother transitions.

Several stakeholders expressed concerns about how the Bill would work in practice. The Bill differs from the existing legislative framework, which refers to Additional

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Support Needs rather than disability. It is unclear who exactly would be covered by the Bill and how they would be identified. The use of the Equality Act 2010 definition of disability is likely to entitle a much larger cohort of young people to a transitions plan than the number of young people currently being supported by social services. The Committee also heard that many disabled children and young people and their families are unable to receive much needed support from social services due to pressures on resources and staffing. This has implications for how the Bill would work in practice as it states that transitions plans should be managed by an officer of the local authority.

We also recognise many of the practical concerns raised by stakeholders around eligibility and definitions within the Bill and have raised questions about how this Bill would work in practice. For example, I highlighted in my previous correspondence to the Committee that it was not clear within the Bill how a single individual within a local authority could take responsibility for the management of the transition plans post school, which could span a number of life-course and institutional transitions for which a local authority representative may not have the knowledge and/or the responsibility for.

The Committee is concerned about the need for a diagnosis in order for young people to access support in the transition to adulthood. Sections 7(3) and 10(1)(a) of the Bill refer to disability as being “diagnosed”, while the 2010 Act definition of disability used in the Bill does not require a diagnosis to be made. The Committee heard that many children and young people face long waiting times for a diagnosis, and some young people do not wish to pursue a diagnosis or view themselves as disabled, or as having a disability. The Committee believes that requiring a diagnosis to access the provisions of the Bill would present an additional barrier to receiving support for a number of young people at a crucial stage in their lives.

Through our research and engagement on the strategy, we have also heard the concerns expressed by stakeholders regarding the need for a diagnosis. Partners in our Strategic Working Group have been clear that the strategy needs to work on a pan-impairment basis and that a lack of diagnosis should not prevent disabled young people and their families accessing the support they need, and this is reflected in the published Statement of Intent.

The Financial Memorandum uses figures from the 2011 Census to estimate the numbers of disabled children and young people to be entitled to a statutory transitions plan, but COSLA considers the figures in the Financial Memorandum to be an underestimate. Without clarity on who exactly would be entitled to a transitions plan under the Bill it is not possible to accurately estimate the cost and resource implications associated with implementing the Bill.

The Scottish Government agrees with the Committee’s findings in respect of the uncertainty of the cost implications of the Bill, and we share the concerns regarding under estimations made in the Financial Memorandum accompanying the Bill regarding the work, time and complexities involved in delivering effective transitions planning.

A number of stakeholders also expressed concerns about the ability of teachers to manage much of the initial planning process as part of their existing responsibilities, as it is envisioned by the Bill. The Committee heard that teachers were already struggling with workloads and would be unable to do this without additional resource. For young people with more complex needs and transitions spanning health, social

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care, education, housing, third sector funding and a number of different agencies, there is a question of how appropriate it would be for a teacher to take on this role. This too would have implications for the costs associated with the Bill as well as the ability to implement it.

As the Committee is aware, education authorities already have statutory duties for planning under the Additional Support for Learning legislation. As I have set out above, the Scottish Government is working with local government partners on the Additional Support for Learning Project Board to deliver the recommendations of the 2020 additional support for learning review by March 2026.

In this regard, I would like to highlight that Scottish Ministers have recently outlined in our Programme for Government 2023-24 our commitment to work with teachers to provide additional professional learning opportunities while seeking to build on the Additional Support for Learning Action Plan.

We have previously raised the risk of the Bill further complicating the landscape for teachers and other practitioners. The Bill would risk duplicating or impacting upon key aspects of existing legislation, including the Education (Additional Support for Learning) (Scotland) Act 2004. As the Committee has recognised, the Bill would substantially duplicate the transitions provisions of the 2004 Act so far as school age children and young people are concerned. There is a risk that the proposed Bill may introduce confusion about the precise nature of the duties placed on education authorities.

As I have stated above, it is also not clear within the Bill how a single individual within a local authority could take responsibility for the management of the transition plans post school, which could span a number of life-course and institutional transitions for which a local authority representative may not have the knowledge and/or the responsibility for.

With that being said, the Committee is clear that doing nothing is not an option and believes that the Scottish Government must address the issues of deep concern to the Committee as a matter of urgency. The Committee intends to continue to monitor the work of the Disabled young people: National Transitions to Adulthood Strategy Strategic Working Group¹ and to scrutinise the forthcoming Scottish Government National Transitions to Adulthood Strategy and the Statement of Intent on the strategy, to ensure the published strategy will address concerns raised during scrutiny of this Bill.

The Scottish Government agrees that the current situation in respect of disabled young people's experiences of their transitions to adult life needs to improve, and that doing nothing is not an option. We are already taking forward a number of activities which will contribute to improving these transitions, and we are committed to doing more.

I am grateful for the Committee's commitment to continue to monitor the work of the Disabled Young People: National Transitions to Adulthood Strategy Strategic Working Group. Given the Committee's lead role in taking evidence on the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, I would welcome the Committee members' contribution, either as individual responses or a collective response, to the questions posed in the survey on the Statement of Intent. We are committed to developing a strategy with solutions drawn from effective practice and the voices and expertise of those with experience

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of transitions to adulthood, and believe our collective expertise will yield the most impactful outcomes.

As we have previously highlighted to the Committee, there are many other areas where improvements are being driven forward, including access to further and higher education, employability and the Independent Living Fund, amongst others.

I hope these updates assure you of my personal commitment, and the commitment of the Scottish Government, to drive forward progress in this important area. Again, please accept my gratitude for your comprehensive consideration of the Bill, and your findings which will contribute to, and strengthen the work, we are taking forward.

Yours Sincerely

Natalie Don
Minister for Children, Young People and Keeping The Promise

21 November 2023

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