

Education, Children and Young People Committee  
Wednesday 8 October September 2025  
29th Meeting, 2025 (Session 6)

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

### Introduction

1. The Scottish Government introduced the Children (Care, Care Experience and Services Planning) (Scotland) Bill on 17 June 2025.
2. The Bill aims to make changes in the law in relation to the children's care system. It also aims to change who is responsible for the planning of children's services.
3. The Education, Children and Young People Committee has been designated as the lead committee for the Bill at Stage 1.

### Call for views

4. The Committee issued calls for views on the provisions of the Bill, which ran from 27 June 2025 until 15 August 2025.
5. There was a call for views aimed at [individuals with care experience and those providing support](#) and a call for views for [organisations and academics](#). The Committee also produced [easy read](#) and [BSL](#) versions of the call for views.
6. The responses to the calls for views have been published. Summaries of the responses received are included at **Annexe A** of the [meeting papers for 10 September](#).

### Committee meeting

7. The Committee will take oral evidence at its meeting at this meeting. The Committee also took evidence at its meetings on [10 September](#) and [17 September](#), and will conclude its evidence gathering on 5 November.
8. At today's meeting, the Committee will take evidence from two panels.
9. On panel one, the Committee will take evidence from:
  - Fiona Whitelock, Policy Manager, The Promise, COSLA
  - Dave Berry, Director, Dundee Health and Social Care Partnership
  - Darren Morrow, Chief Social Work Officer, Orkney Health and Social Care Partnership

- Jim Savege, Chief Executive at Aberdeenshire Council, representing SOLACE Scotland
- Professor Soumen Sengupta, Chief Officer / Director, Health and Social Care, South Lanarkshire Health and Social Care Partnership.

10. On panel two:

- Charlotte Wilson, Chief Inspector (Temporary), Children and Young People, Care Inspectorate
- Maree Allison, Chief Executive, Scottish Social Services Council (SSSC)
- John Trainer, Chief Social Work Officer for Renfrewshire Council and Convener, Social Work Scotland.

### Supporting information

11. SPICe has produced a [background briefing on the Bill](#) which is published on the website. SPICe has also produced a briefing paper for this session which is attached at **Annexe A**.
12. COSLA, SOLACE Scotland, the Care Inspectorate, Scottish Social Services Council (SSSC) and Social Work Scotland have provided written evidence in advance of today's meeting. Their responses are included at **Annexe B**.
13. Although South Lanarkshire HSCP did not provide a written response to the call for views, the Committee did receive a [response from South Lanarkshire Council](#), which may be helpful for the meeting today.

**Clerks to the Committee**  
**October 2025**

## Annexe A

**SPICe**

The Information Centre  
An t-Ionad Fiosrachaidh

Education, Children and Young People Committee

Wednesday 8 October 2025

29<sup>th</sup> Meeting, 2025 (Session 6)

## Children (Care, Care Experience and Services Planning) (Scotland) Bill – Stage 1 (Session 3)

### Introduction

This paper is intended to support members during the Committee's scrutiny of the Children (Care, Care Experience and Services Planning) (Scotland) Bill at Stage 1. A [SPICe briefing on the Bill](#) is available to read in full on the SPICe website, and a further summary of Bill provisions can be found in the [SPICe papers for the Committee's 17 September 2025 meeting](#). Summaries of responses to the Committee's call for views can be found in the [SPICe papers for the Committee's 10 September 2025](#).

The Committee will hear from a range of witnesses including COSLA, SOLACE, Orkney Integration Joint Board (IJB), Dundee Integration Joint Board (IJB), Social Work Scotland (SWS), the Care Inspectorate, and the Scottish Social Services Council (SSSC).

### Profit in care: the Welsh approach

During previous evidence sessions on the Bill, the Welsh approach to profit in residential care has been highlighted by witnesses. Further information on this is provided below.

The [Health and Social Care \(Wales\) Act 2025](#) ('the 2025 Act'), which is largely not in force, sets out a framework aimed at removing private profit from certain children's care services in Wales.

These services – children's homes, secure accommodation, and fostering services – are designated as 'restricted children's services' under the 2025 Act.

To register as a provider of such services, applicants must meet a two-part test: their primary purpose must be focused on children's welfare or another public good, and they must be a not-for-profit entity, such as a charity or a community interest company limited by guarantee without share capital.

In other words, for fostering services, the Welsh approach is less strict than Scotland's ([in section 9 of the Bill](#)), which would require an Independent Fostering

Agency (IFA) to be a charity. Yet for residential care providers, the Welsh approach is more prescriptive than the Scottish approach ([in section 8 of the Bill](#)) in this regard, as the Scottish approach does not require a specific legal model for providers.

Under the Welsh legislation, applicants must also be ‘fit and proper’. For applications relating to restricted children’s services, Welsh Ministers must now assess whether any financial arrangements entered into by an applicant are “unreasonable or disproportionate” or undermine their stated welfare objectives. Registered service providers must also submit annual returns with evidence relevant to this test.

Transitional arrangements are in place for providers already registered when the Act comes into force.

SPICe’s research colleagues in the Welsh Parliament produced [various research publications relating to this legislation](#), which can be consulted for more detail. Additionally, the [Stage 1 report of the Welsh Parliament’s Health and Social Affairs Committee](#) on the Bill that became the 2025 Act was published in October 2024.

## Family Group Decision Making

Though the Bill does not include provisions on Family Group Decision Making (FGDM), it has been mentioned in responses to the Committee’s call for views and by witnesses giving evidence to the Committee.

One of the recommendations of the Independent Care Review – often referred to as ‘The Promise’ – is that decision makers must listen to the views of children and their families and that, by 2030, FGDM and mediation will be a common part of decision making ([Independent Care Review, p33](#)).

FGDM is a decision-making model designed to help children and their families share their views and play an active part in decisions that impact them. It is currently used in some local authority areas in Scotland, but its use is not statutory.

The [Family Group Decision Making \(FGDM\) Scotland National Standards and Practice Guidance](#) sets out the model used for this. The guidance was developed by the National Family Group Decision Making Steering Group, and is based on a model used in New Zealand, which is enshrined in law by the country’s Children, Young Persons and Their Families Act 1989.

Further information about FGDM is available on [The Promise Plan 24-30 website](#).

## Summary of evidence

A brief outline of each provision in the Bill is given below, along with relevant key points from evidence submitted to the [Committee’s call for views](#) and heard by the Committee at its 10 and 17 September 2025 meetings.

On [10 September 2025, the Committee heard from](#) The Promise Scotland, chair of the Hearings System Working Group Sheriff David Mackie, CELCIS, the Children and Young People's Commissioner Scotland, Clan Childlaw and the Law Society of Scotland.

On [17 September 2025, the Committee heard from](#) Children's Hearings Scotland (CHS), NSPCC Scotland, Partners in Advocacy, Scottish Children's Reporter Administration (SCRA), Who Cares? Scotland, Aberlour, Duncan Dunlop, The Fostering Network, and the Scottish Throughcare and Aftercare Forum (Staf).

## **General comments**

Sheriff David Mackie, The Promise Scotland and others highlighted a lack of engagement from the Scottish Government prior to the publication of the Bill, resulting in a lack of knowledge of what would be included in it.

The Promise Scotland told the Committee that further legislation would likely be needed to keep the promise, suggesting that this should include streamlining care system legislation in the next session of Parliament.

Witnesses including The Promise Scotland said the financial memorandum accompanying the Bill was likely an underestimate.

CELCIS and others commented on a lack of focus on kinship care in the Bill. The Fostering Network said foster carer finances was another area missing from the Bill.

Who Cares? Scotland called for post-legislative scrutiny, better data collection and reporting, and embedding accountability in the Bill to ensure the Bill's promises are upheld.

The submission from SOLACE stated the Bill does not account for current pressures on the social work and social care workforce.

## **UNCRC**

Bill sections 1 and 2 (on aftercare) and section 10 (on the register of foster carers) amend the Children (Scotland) Act 1995. As this is pre-devolution UK legislation, it falls outside the scope of the UNCRC Act 2024.

Concerns about this were raised by the Children and Young People's Commissioner Scotland (CYPCS), the Law Society of Scotland and Clan Childlaw.

Who Cares? Scotland and Aberlour also said that the rights in pre-devolution legislation to be amended by the Bill should be restated in the Bill as freestanding rights, to bring them within the scope of the UNCRC Act 2024. Aberlour said that failure to ensure compliance with UNCRC would be a significant concern.

## Aftercare

[Sections 1 and 2 of the Bill](#) deal with aftercare. Aftercare is the term used to describe advice, guidance and assistance beyond universal services provided to children who leave care from age 16.

Responses to the Committee's call for views generally supported provisions to expand aftercare eligibility, highlighting that current legislation excludes many young people from support. However, several responses highlighted that, as drafted, the Bill's aftercare provisions would be out of scope of UNCRC as they relate to a parent act not made in the Scottish Parliament.

A number of responses also called for clarity around the eligibility of unaccompanied asylum-seeking children.

The submission from SOLACE cautioned against "creating a system that incentivises formal care measures" as a requirement to access support, suggesting assessment of need would be more appropriate.

In evidence to the Committee, witnesses said planning the implementation of these provisions in the Bill would be crucial to ensure the system is not overwhelmed.

Clan Childlaw expressed concerns that, as drafted, the provisions would impact those currently eligible for aftercare, removing their right to support in some cases and leaving them instead with only the ability to request an assessment. Witnesses said all 16- and 17-year-olds need to be able to access the mandatory aftercare provision.

Clan Childlaw said that someone coming off a CSO before age 16 will not be eligible for continuing care, and the Bill did not consider continuing care.

Witnesses also highlighted the lack of provisions relating to housing/homelessness as a major issue for those leaving the care system. CELCIS and the Law Society also stated that the cost provided for aftercare in the Bill's Financial Memorandum are outdated and likely an underestimate.

Who Cares? Scotland said eligibility for support should not be restrictive, and that clarity was needed on aftercare eligibility, and the guidance in relation to care experience could look at how people who, for example, have received informal kinship care or who have been in situations of adoption breakdown can receive aftercare support.

On funding, Who Cares? Scotland said that the financial memorandum did not provide additional resource for the expansion of aftercare, describing this as an "oversight" and calling for assurances that the required funding would be provided. Staf echoed this concern.

NSPCC Scotland said aftercare should be lifelong and there should not be a "cliff-edge" of support. Duncan Dunlop, the Fostering Network and Staf agreed care experienced people should have the right to return to care. The Fostering Network

said young people leaving care under 16 should not have to apply for aftercare, as the Bill proposes.

The Fostering Network also highlighted the lack of continuing care provisions in the Bill.

## Corporate parenting

[Section 3 of the Bill](#) relates to corporate parenting. A corporate parent is one of [the publicly funded individuals or organisations](#) with legal responsibilities under Part 9 of [Children and Young People \(Scotland\) Act 2014](#) ('the 2014 Act'). These responsibilities are called corporate parenting duties. They aim to ensure that [looked after children](#), and young people leaving care from age 16, receive the same support and opportunities as any good parent would provide.

While many organisations responding to the call for views welcomed the intention behind the proposed extension of corporate parenting duties to bring these into line with the aftercare provisions in section 1 and 2 of the Bill, the majority of respondents also had concerns.

SWS and SOLACE raised concerns about the proposals represented a potential rights issue, contradicting minimum intervention principles. A number of councils highlighted the need to ensure the responsibilities are understood, with national guidance, appropriate resources, monitoring and the development of a shared understanding of good corporate parenting in practice.

CELCIS stated it was not clear what problem the corporate parenting provision is trying to solve. The proposals would also mean local authorities would have to have due regard to all CE young people and this could include those adopted as babies. Witnesses questioned the need for this.

Who Cares? Scotland, The Fostering Network and NSPCC said that extending corporate parenting to cover formerly looked-after children and young people up to 26 is very welcome.

Who Cares? Scotland and the NSPCC emphasise that all individuals who have experienced foster care or adoption, even those adopted at or under five, should continue to be recognised by corporate parents. For these organisations, this is not about unnecessary state intervention, but about ensuring that support is available when needed, especially in cases where adoptions break down. They highlight that going through foster care or adoption, even at a very young age, can involve significant adverse experiences that may have lasting effects, and therefore these individuals should not lose visibility within the system.

Who Cares? Scotland and The Fostering Network called for an even more ambitious approach for section 3, which extends corporate parenting duties to cover care-experienced people's whole lifespan.



Some witnesses made more general points about corporate parenting. Duncan Dunlop wanted the concept renamed 'community parenting'. Who Cares? Scotland favoured streamlined accountability requirements for corporate parenting, for example, combining corporate parenting and The Promise-related plans to avoid duplication. Who Cares? Scotland also recommended a duty on Ministers to produce guidance ensuring regular renewal of training for corporate parents, particularly those in senior leadership.

Staf spoke of current inconsistencies across the country between corporate parents and how they understand their role, suggesting that best practice needed to be shared across a flexible country-wide system.

## **Advocacy**

[Section 4 of the Bill](#) says that Scottish Ministers must, by regulations, confer rights of access to what it refers to as care experience advocacy services. This relates to the recommendation from The Promise that care-experienced individuals should have a statutory right to advocacy throughout their care journey and beyond.

The majority of respondents to the Committee's call for views were supportive of the principle of extending advocacy, however there were concerns about related issues such as provision of resources. Respondents including Adoption UK Scotland, South Ayrshire Council and H&SCP, SWS, COSLA, Children First and UNISON Scotland expressed concerns about the detail of advocacy provision being left to subsequent regulations.

SOLACE said that the Bill lacks clarity on who qualifies for advocacy, how it will be delivered, and how it will be funded. Without proper planning, it thought there was a risk of duplicating services and stigmatising care-experienced individuals. It said it was important to pilot integrated advocacy models with adult services, co-design a national framework with local partners, and ensure the service is properly resourced.

In evidence to the Committee, Sheriff Mackie and other witnesses said that advocacy needed to be available as early as possible for a young person, adding that access to legal advocacy was also sometimes required.

The Promise Scotland highlighted the knock-on impact successful advocacy could have on other policy areas. CELCIS said independent advocacy should not be a one-off offer to families.

A number of witnesses also said that many advocacy organisations are small, funding is precarious, and this issue is not addressed in the Bill.

The need to ensure advocacy is independent – and that 'independent advocacy' is defined – was highlighted by witnesses.

In the second evidence session, a range of witnesses explicitly welcomed the expansion or promotion of advocacy rights in their oral evidence. Who Cares?



Scotland, for example, linked section 4 of the Bill to upholding Article 12 of the UNCRC (on the child or young person's right to express views).

Various witnesses, including Who Cares? Scotland and the Fostering Network, stressed the need to protect and clearly define independent advocacy in the Bill. They referred to various existing definitions and standards in this regard, including those in the Mental Health (Care and Treatment) (Scotland) Act 2003, the existing definition of advocacy used in the children's hearings system and from the Scottish Independent Advocacy Alliance.

Who Cares? Scotland argued, for example, that independence is crucial because local authority employees may face limits in fully upholding a young person's rights. It said that, since 2020, there have been cuts to independent advocacy for care-experienced people, despite commitments to support it.

More generally, Who Cares? Scotland, Partners in Advocacy and the Scottish Throughcare and Aftercare Forum stressed that increased advocacy as set in the Bill must be matched with adequate resources. Related to this, Partners in Advocacy stated that current demand exceeds capacity in Scotland.

Who Cares? Scotland said "lifelong" should be kept in the Bill and "relationships-based" could usefully be added to it. Duncan Dunlop also emphasised the importance of relationships-based advocacy in principle.

However, in terms of what should be in section 4 itself, Who Cares? Scotland also acknowledged that regulations are easier to update than legislation, especially as the definition of "care experience" continues to evolve.

Partners in Advocacy highlighted that restrictive criteria often prevent those in need from accessing advocacy, calling for more flexible and meaningful provision. The Fostering Network said the definition of "care experience" should include anyone who has been looked after, including at home, in formal or informal kinship care, in foster care or in residential care.

Who Cares? Scotland recommended access to both independent advocacy and legal advice for children in care, noting that advocates are trained by lawyers to identify when legal representation is needed.

NSPCC was concerned that the Bill lacks measures, such as infant safeguarders, to ensure infants' voices and experiences are represented. Who Cares? Scotland and Partners in Advocacy saw such measures as distinct from, but complementary to, traditional forms of advocacy.

In children's hearings, especially for those facing offence grounds or deprivation of liberty orders, Who Cares? Scotland wanted an opt-out model of advocacy (as used in England and Wales) due to the serious impact on rights. Duncan Dunlop supported an opt-out model of advocacy more generally.

Aberlour Children's Charity and Staf emphasised the importance of choice for a care-experienced person, so that support from other significant adults and advocacy work together effectively.

## **Guidance in relation to care experience**

[Sections 5 and 6 of the Bill](#) deal with guidance for public authorities and organisations exercising public functions in relation to care experience.

Many respondents to the call for views were broadly supportive of the proposals for guidance in relation to care experience, however there were several specific concerns raised and there was disappointment that the Bill did not include a universal definition, instead leaving this to secondary legislation.

Many of those with positive comments placed an emphasis on the importance of co-production with those who have experience of care. This included responses from Scottish Social Services Council (SSSC), and the Care Inspectorate.

There were differences of opinion regarding who should be included in any definition of 'care experienced', with some organisations including Adoption UK Scotland and Aberdeenshire Council favouring a broad definition, while organisations including Social Work Scotland and COSLA were concerned this could lead to the inclusion of those who have not been looked after and never had state intervention in their lives. SOLACE stated that care experience should be defined with clear parameters in primary legislation.

SASW, SWS and the Scottish Refugee Council highlighted the need for best practice in relation to Unaccompanied Asylum-Seeking Children.

Witnesses giving evidence to the committee had mixed views in relation to a definition of 'care experienced.' The Promise Scotland and others pointed to the need to ensure a definition is broad and inclusive, whilst avoiding stigma. CELCIS said that a definition of care experience would likely be helpful but questioned what value it would add and whether the test for legislation had been passed. The Law Society said clear and concise law making was needed and only rights that are going to be implemented should be included.

CYPCS said any definition needs to acknowledge that the use of language such as care experienced is a choice and privacy needs to be respected. CYPCS also expressed uncertainty around the benefits of having a definition unless it is linked to eligibility for various supports, stating any definition needs to bring clarity not confusion. The interaction between the definition and eligibility for support was also discussed by other witnesses.

Who Cares? Scotland said, rather than producing more guidance, the Bill should include a duty to develop regulations that define care experience. These regulations could contain a 'due regard' on public bodies, promote rights-based practice and be inclusive of all care types.

Staf said the definition needed be clear so that young people can clearly understand their rights and entitlements.

## **Profit limitation: residential care**

[Section 8 of the Bill](#) would enable Scottish Ministers, through regulations, to enhance the financial transparency of (non-local authority) residential care providers – children’s homes and residential schools. Should it be determined that excessive profits are being made, section 8 of the Bill would also enable the Scottish Ministers to make further regulations to limit residential care providers’ profits.

Many organisations – including SWS – said that the Bill needed to be clearer in its definition of “extensive profit.” Several responses called for greater clarity regarding the measures in the Bill to gather and use data on the profits of private residential care services.

There were also respondents who discussed the differences set out in the legislation between independent fostering agencies (IFAs) and residential care services, with COSLA stating that it is “unclear why a different approach” has been taken between them. COSLA and others suggested that residential services should be treated in the same way as IFAs and register as charities.

COSLA, Glasgow City Health and Social Care Partnership, SOLACE and others raised the concern that this section of the legislation risks providers withdrawing from the market, resulting in a lack of residential places to meet the need for them.

SOLACE urged a phased and risk-assessed approach to avoid destabilising the sector. It said this should include detailed planning and stakeholder engagement before legislating, as well as learning from other jurisdictions.

Witnesses giving evidence to the Committee said there was a need to differentiate between reinvesting surplus and profit going to shareholders. CELCIS and others stated care is needed to ensure private providers of specific services are not unnecessarily taken out of the system. CELCIS and The Law Society also said that the proposals had not been fully consulted on before going into the Bill, pointing out the consultation closes in October.

Aberlour highlighted the need for greater clarity in section 8 of the Bill regarding profit in residential care. It, like witnesses the previous week, emphasised that profit going to private stakeholders contradicts a key principle of The Promise. However, it said that this should not be confused with organisations reinvesting surpluses to improve care. The Fostering Network, SCRA and Aberlour argued that reinvestment is essential for maintaining quality, financial stability, and sustainability, especially given the challenges of short-term grant funding. Who Cares? Scotland also called for a stronger definition of profit making.

NSPCC highlighted the impact of stable, high-quality care, stating the need to ensure adequate investment for residential services. NSPCC also highlighted the lack of evidence about the outcomes for children in care.

Aberlour noted that requiring residential care providers to be charities is only one approach, as some private providers also deliver high-quality care and reinvest in children’s services.

Related to this point, Duncan Dunlop pointed out that, conversely, some charity executives receive high salaries. However, overall, he emphasised that the focus should be on the nature and quality of care rather than profit, expressing opposition to institutional care.

Meanwhile, The Fostering Network supported strengthening section 8 of the Bill, advocating for a not-for-profit model similar to the Welsh approach (see the 'Profit in care: the Welsh approach' section of this paper for further information).

Staf reported that its members did not hold strong views on this part of the Bill, however, it echoed the broader consensus that the quality of care is paramount. It also highlighted the existing shortage of carers, urging policymakers to consider this when shaping any response.

## **IFAs as charities**

[Section 9 of the Bill](#) relates to Independent Fostering Agencies (IFAs). It requires an IFA to be a charity - either registered in Scotland, England and Wales or Northern Ireland.

While there were fewer call for views responses to this question, the majority of those who did respond were broadly in favour of the proposals in the Bill. Concerns raised focussed on the practicalities of transitioning IFAs to the charity model. For example, SWS and Aberdeenshire Council all expressed the view that sufficient time and clear guidance is needed to enable this to happen. There were also questions raised by some of the organisations regarding how transition and progress would be monitored in practice and implications for IFAs choosing not to register as charities.

There was also general agreement that any change had to be managed in a way that did not negatively impact children in fostering arrangements. Many organisations including COSLA raised concerns about the possibility that the change would lead to some providers closing.

Other organisations were strongly opposed to the provisions. For example, the Nationwide Association of Fostering Providers (NAFP) stated that IFAs must already follow a not-for-profit model and are held accountable under the current system, without adding the additional reporting burden of accountability to the Charity Commission.

In evidence to the Committee, witnesses generally welcomed moves to make IFAs register as charities. The Promise said the provisions were closing loopholes in the system, while CELCIS said they felt pragmatic and similar is happening in Wales. Witnesses said there was a need for further understanding of the implications of the change in order to understand whether some organisations might cease to operate.

Much of the discussion from the 17 September evidence session covered profit in care as a general topic (potentially relevant to both sections 8 and 9 of the Bill). However, the Fostering Network explicitly supported the proposal in section 9 for

independent fostering agencies to become registered charities, citing its involvement in work to make IFAs in Wales not-for-profit and stating the Scottish Government proposals would go further. It recommended a phased implementation to allow time for transition. It emphasised the importance of allowing charities to continue reinvesting surpluses into children's services. However, it raised concerns about potential loopholes that may persist, even with enhanced reporting requirements for charities.

NSPCC stressed the need to ensure any measures did not prevent foster carers from becoming adoptive parents.

## **Register of foster carers**

[Section 10](#) amends the Children (Scotland) Act 1995 (the 1995 Act) to give Scottish Ministers the power to "make arrangements for the establishment and maintenance of a register of foster carers" in order to facilitate approval of carers and placement of children at local level. The proposals will not change the approval process of foster carers and placement of looked after children.

There was general support for a register of foster carers in responses to the Committee's call for views.

Several organisations including SWS highlighted potential safeguarding benefits of a fostering register. Includem and STAF suggested strengthening the register by including a record of complaints/comments made by children.

Organisations including COSLA, NAFP and councils stated the purpose of the register was unclear. Several responses highlighted the declining number of foster carers across the country, stating the introduction of the register must not worsen this situation.

Organisations including the Care Inspectorate, Children's Services, Renfrewshire Council, the Promise Board Highland, Aberdeenshire Council and Children in Scotland called for clarity on who will manage the register and how it will be maintained.

CELCIS and NSPCC Scotland said Scotland's Adoption Register provided an example to learn from. SSSC stated that while it had been highlighted in responses to the foster care consultation as an organisation which might maintain the register, it was required to charge a fee for registration and does not carry out an equivalent role to 'matching'.

In evidence to the Committee, witnesses were generally supportive of the provisions. The Promise stated that the register would not on its own solve the falling number of foster carers but could aid understanding. CELCIS stated the Scottish Government needed to clearly set out the rationale for why the register was being set up. Concern about moving children and young people away from their communities was also highlighted.

Who Cares? Scotland said the register should capture complaints and concerns raised by young people, and the provisions must be UNCRC compliant.

## **Family group decision making**

In evidence to the Committee, The Promise and Sheriff David Mackie agreed that FGDM was an area in which the Bill could be strengthened. Sheriff Mackie suggested that it is important in a rights-based world to engage people in their own process.

CELCIS stated more work was needed to understand whether FGDM should be included in legislation, adding that it was already happening in some local authority areas.

## **Children's hearings**

Chapter 3 of the Bill includes provisions relating to changes made within the children's hearings system.

On the proposals in general, Sheriff Mackie suggested adding a provision to the Bill that states that the Children's Hearings system is an inquisitorial non-adversarial process. He also returned to comments on the importance of a children's plan and introducing advocacy for children's hearings at the earliest possible stage.

On the costings provided in the Bill's Financial Memorandum, SCRA said the costs of the children's hearings provisions might be higher as the provisions on post-referral meeting with the reporter had not been fully costed. NSPCC highlighted the potential that tackling drift and delay in the children's hearings system could have on reducing costs.

## **Single member panels and Remuneration**

[Section 11](#) makes changes to the composition of children's panels, allowing them to be composed of a single panel member (rather than the current 3 panel members) in certain circumstances.

[Section 12](#) allows certain panel members to be remunerated and paid allowances. The new powers of remuneration are, in particular, intended to apply to panel members fulfilling identified 'chairing member' roles and any 'specialist members'.

In response to the Committee's call for views, SWS, the Care Inspectorate and others said single member panels had the potential to reduce delays in the system and speed up decision making. However, SWS said members generally opposed single member panels, particularly in relation to decisions about grounds. Our Hearings, Our Voice found most young people they spoke to did not support the proposals.

Sheriff Mackie told the committee that single person panels should not be feared, and while bigger decisions would be best made by a panel of 3 people, many

procedural decisions could be made by just one. He suggested that Chairs would be best placed to do this.

Sheriff Mackie noted that some of the language in the Bill, especially changes related to section 90 of the Children's Hearings (Scotland) Act 2011 [section 11 in the Bill], had sections that were almost impossible to read.

CYPCS said while not opposed to single member panels it remained cautious, and details still needed to be ironed out. CYPCS also said that having the National Convener making decisions on whether a single panel can go ahead will mean seeking info from Reporter etc and could be a considerable task.

Clan Childlaw and the Law Society said further detail on the types of decisions that could be made and the structure of the panel were needed.

Sheriff Mackie said remuneration proposals were made by the HSWG [*Hearings System Working Group*] in the context of a proposed expanded role for the Chair, and in an effort to increase the diversity of panel members, as currently only those who can afford to volunteer get involved.

CYPCS said while there could be benefits to expanded role, it was not seeing strong evidence for specialist panel members and further details were needed. CYPCS also said adding in a specialist member could cause confusion and be difficult to arrange in remote/rural areas.

Clan Childlaw and CYPCS said the proposals could potentially create a hierarchy. Clan Childlaw asked for clarity on the purpose of remuneration, stating if this was to ensure continuity of chair then this could be a good thing. Clan Childlaw also asked for clarity on the decision-making process around deciding when a specialist member is required. CELCIS said it was not convinced of the merits of remuneration and would need to look at whether it moved the system on enough to justify the significant costs attached.

SCRA said there could be benefits to single member panels, but the proposals still required to be tested. SCRA highlighted the proposal for single member panels to make decisions on issuing interim compulsory supervision orders as "the area that raises the most questions", describing these as "some of the most challenging and impactful decisions that a hearing can make".

SCRA also said that there may be questions around why some decisions are suitable for one person to make, and others are not.

CHS said it was supportive of removing the procedural legal burden on three-person panels. NSPCC and CHS supported proposals for a legally competent chair, with CHS stating such a chair would be able to digest the layers of legislation and regulation involved in decision making. In addition, training volunteers to understand new legislation was complicated and legally competent chairs would help with this.

SCRA and CHS acknowledged that substantive decisions in making compulsory supervision orders would lie with a three-person panel.



On specialist panel members, CHS said they should be used “less than 5 per cent of the time” and reiterated points made by witnesses that the provision to bring in specialists already exists.

NSPCC said there needed to be specialist input into panels for cases involving babies and infants.

### **Obligation to attend**

[Section 13](#) of the Bill deals with the child's attendance at children's hearings and hearings before a sheriff. The Bill removes the child's obligation to attend hearings and proceedings before a sheriff, though they retain the right to do so.

Responses to the call for views highlighted the benefits of child attendance at hearings, and the need to ensure the child's voice is heard if they choose not to attend.

Sheriff Mackie said removing the obligation to attend hearings was a good move, but this needed to be balanced with the importance of attending where possible. He felt this provision linked in with advocacy services to ensure young people were supported to attend, and the Bill could be strengthened in this regard.

CYPCS said Bill provisions removing the obligation for a child to attend a children's hearing could have a negative impact on children's rights if the child's views are missing. Therefore, the Bill needs to specify how the child's voice will be heard, particularly in the case of disabled children and those with additional support needs. Clan Childlaw stated the provisions needed to balance up the right to a fair trial for those attending hearings on offence grounds, adding that Clan Childlaw already believes hearings breach the UNCRC around access to a lawyer.

SCRA said the proposals were a “progressive move”, giving the children's hearing the power to require the child to attend rather than the obligation being on the child. CHS cautioned against this move meaning the child's views not being at the centre of their hearing, stating:

“We do not want to sleepwalk into a position in which children do not routinely attend their hearings.” – [Official Report, 17/09/25](#)

While the Fostering Network supported the provisions, it noted that there was a need to balance this with ensuring that the right to attend was not eroded. Duncan Dunlop stated that the Bill should include the ‘presumption’ that a young person would attend hearings.

### **Grounds hearings**

[Section 14](#) of the Bill makes changes in relation to the process of establishing grounds. Under the provisions, rather than simply moving to arranging a grounds hearing after a decision that compulsory measures are needed for a child, Children's Reporters would be able to engage with children and family members at this stage. The Principal Reporter must also prepare a report which can include the results of this discussion, as well as other information held by the Reporter. After this process,

a hearing can be convened where it is likely grounds will be accepted – or in cases where grounds are not likely to be accepted, the Principal Reporter must apply directly to the sheriff to decide whether grounds are established.

In evidence to the Committee, Sheriff Mackie said grounds hearings can be difficult and that in cases where grounds are not opposed it would be best dealt with by a system that was more administrative, avoiding the need for a hearing. He said that the Bill stops short of introducing this and instead reinforces the existing system. While the Bill does allow grounds to be agreed without the young person being involved, which Sheriff Mackie agreed was a positive, he expressed reservations about how much progress this change is in reality.

CYPCS said the Bill included a mandatory offer of a meeting with the Reporter, when this was originally intended to be the ability to request a meeting. This could lead to a situation where multiple meetings had to be arranged (e.g. for different groups within a family). CYPCS, Clan Childlaw and Law Society all expressed concerns about the proposals, stating the need for legal representation at these ‘potentially significant’ meetings. They also raised concerns that the Reporter being involved at this stage was akin to a prosecutor taking up a similar role and may lead to a situation where a child could incriminate themselves unknowingly.

SCRA said while it could see benefits from the option to meet with a reporter, and it was “probably a good thing” to have this in statute. However, SCRA also had concerns about managing perceptions, consequences following a meeting and the fact the reporter would have to prepare a report following the meeting. A potential conflict of interest was also flagged by SCRA:

“The children’s reporter is the independent officer who has initiated the process. We believe that the child requires compulsory measures of supervision and we have framed grounds that we believe are evidenced and are required, so we have a vested interest in establishing those grounds. We want to ensure that there is no sense of pressure on the family, and on the child in particular, to feel that they have to give a certain response to the grounds.

We were a little bit concerned to see that the report might then be used in the hearing to record whether the child has understood the grounds or is capable of understanding them. We think that, rather than that being determinative for the hearing, it should simply be something that could be taken into account by the hearing.” – [Official Report, 17/09/2025](#)

Clarification around what was expected to be contained in the report was requested by SCRA.

### **Relevant persons**

[Section 15](#) of the Bill slightly expands the current circumstances under which a relevant person can be temporarily excluded from a children’s hearing or pre-hearing panel and allows a pre-hearing panel to make this decision prior to a hearing.

[Section 16](#) of the Bill enables relevant person status to be removed from someone who automatically has this status as defined under section 200 of the 2011 Act. This is currently not possible, with only the status of those who are 'deemed' as relevant persons being able to be removed in certain circumstances.

There was support for these proposals in the call for views, though the need to clarify elements of the process was highlighted by some.

The Fostering Network suggested the Principal Reporter should be required to ask children who they want to be involved in their hearing, and guidance should be produced on this.

### **Other changes**

Sections 17 to 21 of the Bill set out further changes to the Children's Hearings System.

[Section 17](#) changes referral provisions in the 2011 Act from the current provision that a CSO "might be necessary" to "is likely to be needed". The word "support" is also added to the existing criteria of "protection, guidance, treatment or control" for referrals to the reporter.

In the call for views responses, many organisations agreed with the addition of the word 'support', but a number expressed disappointment that the language of "treatment or control" will not be modernised by the Bill.

[Section 18](#) places new duties on local authorities, police constables, health boards, and the children's reporter to provide information to children about: their referrals, the children's hearings process and available advocacy.

In the responses to the call for views, COSLA stated support for sharing of appropriate information.

[Section 19](#) makes changes to the period for which interim compulsory supervision orders and interim variations of compulsory supervision orders have effect. While the maximum duration of the initial ICSO will remain at 22 days, subsequent orders and non-urgent extensions will increase to a maximum duration of 44 days. Where an interim variation requires to be made urgently, it will apply for a maximum of 22 days. The Policy Memorandum states that for "less urgent" cases, 44 days will be the maximum duration.

SCRA's response to the call for views called for further detail and evidence on the proposal showing it would offer an improved experience. SCRA expressed support for proposed changes to timescales of ICSOs. Who Cares? Scotland stated concern that proposals for single panel members to make or extend ICSOs may breach a child's right to a fair trial.

[Section 20](#) makes technical changes to sections 96 and 98 of the 2011 Act. The Policy Memorandum states this is to "improve the congruence between the two" in relation to extensions of interim CSOs.

[Section 21](#) inserts a new power into the 2011 Act setting out further circumstances in which the Principal Reporter can initiate a review hearing for a CSO, before the expiry of an existing order and without the need for new grounds to be investigated and established. These changes will mean that the Principal Reporter can initiate a review where: there is significant new information; the order is no longer required; there are problems with implementation, suggesting the order could benefit from a review.

## **Children's services planning**

Part 2 of the Bill amends existing provisions in Part 3 of the Children and Young People (Scotland) Act 2014 (the 2014 Act) on the planning of children's services. introduces the new term 'lead children's services planning bodies'. It also provides for any Integration Joint Boards (IJBs) covering an area to join local authorities and health boards on the list of bodies required to plan children's services.

In the 2014 Act, 'integration joint boards' (IJBs) are listed as an 'other service provider' for the purposes of children's services planning. This creates an unusual situation for children's services, especially where they have been delegated to the IJB. [Section 22](#) of the Bill amends Part 3 of the 2014 Act to change the status of IJBs in relation to children's services planning where there is a relevant IJB in the local authority area. This change will see IJBs join local authorities and health boards on the list of bodies required to plan children's services. Collectively, and to reflect service planning on the ground, the three bodies are to be known as 'lead children's services planning bodies'.

In response to the call for views, many organisations stated further guidance would be needed to ensure the changes proposed by the Bill were effective. The proposals were welcomed by organisations including the Fostering Network, Cyrenians, Includem, Who Cares? Scotland, Clackmannanshire Council, Moray Council/Health and Social Care Moray, Children's Services East Lothian and Polaris Community.

COSLA's submission noted the lack of public consultation on these changes, adding that analysis by Health and Social Care Scotland (referenced in the [Orkney IJB Medium Term Financial Plan 2025-28](#)) had identified a real-terms budget shortfall of £497.5m across the 31 IJBs between 2024-25 and 2025-26, raising concerns about delivery of health and social care services. The submission stated:

“Any legislative changes that expand responsibilities— particularly in children's services—must be carefully assessed against this backdrop to avoid exacerbating existing pressures and undermining the sustainability of care provision across the lifespan.” – COSLA submission to call for views

SWS' submission said its members had “almost universally struggled to understand” the difference that the inclusion of IJBs as core duty holders in children's services planning will make.

SOLACE said the proposals lacked clarity and may not enhance collaboration, suggesting existing statutory guidance should be strengthened and integration between child and adult services improved instead.

In evidence to the Committee, Who Cares? Scotland welcomed the proposals given IJBs' role as corporate parents. Partners in Advocacy said commissioning of advocacy under the new arrangements required consideration.

**Lynne Currie, Sarah Harvie-Clark and Laura Haley, SPICe Research**

**2/10/2025**

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## **Annexe B**

# **COSLA Response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill Call for Views**

## **Part 1 Chapter 1**

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

COSLA recognises the positive intention of extending aftercare provisions to those who have been looked after and left care prior to their 16th birthday. However, there are a number of considerations that should be taken into account.

First and foremost, accurate financial resources need to be in place and the financial memorandum significantly underestimates the funding required. The costings are based on information that was provided for a different legislative change some time ago and is therefore out of date and taken out of context. There has been no engagement with COSLA or Social Work Scotland (SWS) in relation to this bill to ensure that appropriate figures have been used. More detailed information on this is provided in our response to the call for views on the financial memorandum.

As well as sufficient funding, there are significant implications for the local authority workforce, and in particular the social work workforce. There is an ongoing crisis in the children's services workforce, with local authorities struggling with the recruitment and retention of staff, as well as significant levels of staff absence due to stress and poor mental health. SWS shared that a rural area recently had over 40% vacancies. SSSC six monthly social work staffing figures highlight that the impact of workforce challenges is greater in children and families than other social work areas. While work is beginning to address these challenges, for example the establishment of the Scottish Social Work Partnership, this is in the very early stages and will take time to take effect. It is likely that frontline teams will not feel the effects of this for years. If this is not factored into implementation planning and timescales, then we are setting it up for failure. This will impact most on a workforce already under significant pressure, and on the children and young people they are supporting.

Workforce considerations are one part of the wider system readiness which will be key to any future implementation. Alignment and sequencing with other development is key to ensure that it is achievable. Locally it is the same workforce working to achieve a wide range of commitments and priorities made nationally. This applies generally to all the changes suggested in the bill and is mentioned in more detail below.

In terms of system readiness and sequencing, we need to make sure lessons have been learned from previous legislation, such as continuing care. While the intentions

and principles of this were positive, there was not appropriate planning or resourcing from national government. As a result, local authorities are still facing ongoing challenges in delivering this over 10 years since the act was passed.

While this wider context needs thorough consideration, there are some specific, more practical questions regarding the extension of aftercare. Insights from social work teams, as well as from children and young people, highlight that some who leave care close to their 16th birthday or who were legally 'looked after' for a significant period prior to this face ongoing challenges connected to this experience. It makes sense that this group would require ongoing support as they transition to adulthood and that children's social work services are the right people to do this.

However, we need to ensure that by extending aftercare to all those with care experience, we are getting the right support to the right people. There will be children and young people with a range of past involvement with statutory social work services, who have been impacted to a greater and lesser degree. There may be some people entitled to aftercare support, where the specific expertise of children social work services are not necessarily required as their support needs may or may not be linked to their experience in care. By this same logic, there could be people who have experienced other adversities and disadvantages, for example, growing up in poverty, who are not care experienced but have significant support needs. There needs to be close partnership working with those who deliver services and those working directly with children and young people, to ensure these kinds of questions have been considered in depth. Had this bill been developed collaboratively, this could have been done before now.

Some young people will now be entitled to aftercare even though they have not been involved in the statutory care system for a long time. Significant efforts are being made, both nationally and locally, to shift the focus to early intervention and preventative work. To some extent, progressing changes that brings young people back into formal social work processes and systems runs counter to this. Strengthening current support services available through universal or early intervention pathways may in fact be more effective. For many young people the challenges they face are linked to other areas of their lives, for example, accessing housing or mental health supports. Introducing legislation within children's social work systems, will not address challenges in these other sectors, for example, limited housing provision or waitlists for adult mental health supports. There needs to be clarity as to the issues that this legislative shift is aiming to address, and how the changes will result in the desired improvements.

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

The extension of corporate parenting duties requires careful consideration, as it may not be as simple as extending it to all those who have ever left care.



Currently corporate parents have responsibility for children and young people who are looked after or care leavers. Both these terms have a clear legislative framework which justify the state's involvement in a child or young person's life and is based on the family's current circumstances. Extending corporate parenting duties to everyone who was ever looked after, lacks any clear legal justification for state involvement in a family's life and doesn't allow them choice as to whether they want this or not.

There could be a young baby who was looked after at home for a very short period early in their life, but they never leave their parents' care and had no further involvement with statutory services. This child or their parents may not want corporate parents to have responsibilities for them until they are 26.

There needs to be clearer consideration of how these corporate parenting responsibilities will now interact with parental rights and responsibilities in a situation where there is no current statutory involvement in a child's life. It is unclear how this extension of corporate parenting responsibilities aligns with the key principle of minimal state intervention.

The paperwork for the bill does not outline clearly whether there has been thorough exploration into any unexpected consequences in practice, both for children and families, as well as for corporate parents. There needs to be thorough exploration of possible alternatives, for example, extending corporate parenting responsibilities only to those accessing aftercare provisions.

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

Advocacy provisions across Scotland are incredibly complex. There is no clear picture as to what the current advocacy provision looks like, never mind what a provision for all people with care experience would look like. Some key considerations are noted below, although this is by no means an exhaustive list of questions:

- Given complexity in the current provision, how do we ensure that there is not duplication in services but also no gaps in provision?
- Will there be a national service established or will it be through local commissioning?
- What will it cost to deliver a lifelong advocacy service for those who are care experienced? The financial memorandum does not provide thorough costings.
- It is unclear whether the entitlement will be linked to existing legal definitions or the new statutory definition of care experience which has

not yet been developed, and is also suggested to be left to secondary legislation.

- Given that we do not know how many adults are care experienced, how do we begin to predict uptake for support for this group?
- What do we mean by 'independent', will this use the same definition that is used for advocacy in the Children's Hearing System?
- What is the role for Children's Rights Workers in promoting rights?

COSLA understands that the Scottish Government is in the process of carrying out mapping activity to better understand provision. This should have been done prior to creating the bill to ensure that the implementation of this is realistic and achievable.

This is one of many areas of the bill where it is suggested the detail be developed in secondary legislation. Given the complexity of advocacy provision and the number of unanswered questions, it does not feel appropriate that this is developed without sufficient parliamentary scrutiny.

Significant work is underway in relation to developing trauma-informed and rights based services, as well as a trauma-informed workforce. This aligns with a number of other developments that aim to transform the way that services are delivered, including the promise, Whole Family Wellbeing, UNCRC, etc. There is a wider question here as to where we should focus our collective efforts and resources. If improvement work in these areas is effective, then the need for advocacy provision should decrease, as people will be listened to and included in the decisions that affect them.

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

This is another area of the bill being left to secondary legislation and again, this is not ideal. The bill itself outlines that those who are looked after and those on kinship care order should be included, however, it then leaves it open to include anyone 'cared for or otherwise supported in such circumstances as are specified in the guidance'. This could potentially cover a very wide range of experiences.

The inclusion of all of those on kinship care order could be difficult for some people. Some individuals will live with family members and never have experience of state care or any social work involvement. They may therefore not see themselves as care experienced.

There needs to be clarity on how this new definition will interact with existing definitions and eligibility. It is not yet clear how it will affect a wide range of eligibility

criteria for a range of services and supports. This lack of clarity means the implementation has not been considered and there could be a number of unintended consequences.

## **Chapter 2**

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

The promise is clear about the need to address monetisation and marketisation of care. From an ethical perspective, it is clear that individuals should not be profiting from our most vulnerable children. There are a number of areas to consider in terms of progressing this, and lessons should be learnt from other areas of the UK.

The key issue will be preventing residential providers exiting the market suddenly, risking leaving children and young people with nowhere to live or without a place that is able to meet their needs. The current situation is already difficult in terms of finding appropriate placements, and if not managed correctly, this could make it worse. In relation to private residential care, profit is only one part of this and consideration should be given generally to how the market is functioning. Local authorities are paying significant amounts to private residential providers and are seeing an increasing amount of additional costs. There is a risk that these proposals lead to providers withdrawing from the market, putting increased pressure on the market, resulting in increased fees for local authorities that are simply unaffordable. Given the current context, more thorough consideration of possible consequences is required, as well as clarity as to how this will work in practice.

In thinking about the bill more broadly, it is unclear why a different approach has been taken to private residential providers and to independent fostering agencies (IFAs).

Although IFAs are required to register as not for profit organisations, there is evidence that they still profit through sister or parent companies. This is the reason given for the proposal that they must be registered charities. It is not clear why independent fostering agencies must register as charities but residential providers are not required to do this.

### **2. What are your views on proposals to require fostering services to be charities?**

Similar to the comments above, there is a clear ethical argument for requiring fostering services to be registered charities. Clarity is needed as to how this will address issues related to profit in this area. They are currently required to be non-profit organisations and yet, issues related to profit remain. Before moving forward

with this suggestion, there needs to be assurances that this would or could not continue were they registered as charities.

As with residential care, any exit of IFAs from the market would significantly impact on the availability of suitable placements for children and young people. This needs to be managed in a way that ensures they are not negatively impacted. Thorough consideration of any implications is needed to avoid unintended consequences.

### **3. What are your views on proposals to maintain a register of foster carers?**

The purpose of a national register and what it will achieve is unclear. The Promise focuses on the need to better support foster carers to ensure they feel valued, cared for and supported to care. A national register will not achieve this and would detract attention, time and resources away from meaningful developments.

A number of objectives are outlined in the policy memorandum. For each of these, some questions and key considerations are provided below:

- **Enhancing safeguarding:** Thorough exploration of the various options and alternatives for strengthening safeguarding are not provided, and therefore it is unclear why a national register is the best way to do this. Checks are already carried out through the assessment process and there could be more straightforward ways of strengthening this if required. For example, looking into the current disclosure processes, or even having a register of foster carers that have been de-registered. There needs to be clarity as to what the gaps are in order to be clear on the best way to improve this.
- **Professional recognition for foster carers:** Unclear how the register will achieve this. It could be perceived as additional monitoring of foster carers and could in fact act as a deterrent for some carers. They may have concerns about how their person data will be used and the level of information sharing.
- **Mobility of foster carers:** Current approaches to reviewing and approving foster carers allows for derivative approvals where assessments from another fostering service can be reviewed to avoid the need to re-do the full assessment. Again, it is unclear what the specific issue is that needs addressed and whether there are in fact more straightforward ways of addressing this.
- **Coordination of placements for children and young people:** The idea that a national register will support this is counterintuitive. The promise is clear that where children and young people cannot live with their parents or family members, they should remain within their communities. Therefore, the organisation of placements should remain local to ensure that those who know the child or young person are the ones involved in matching

and decision-making processes. Local authorities already have networks and connections with others that they can use to identify placements if needed.

Time and effort should be dedicated to addressing challenges related to the retention and recruitment of foster carers, which would then reduce the need for out of area placements. The addition of a national register could create additional bureaucracy and make the process of placing a child more complex. This would be particularly problematic in emergency situations where local authorities need to act quickly to keep a child safe.

- **National data:** Local authorities already provide a significant amount of data to various organisations, including the Scottish Government, Care Inspectorate and Scottish Social Services Council. There is a risk that a national register could further complicate this or duplicate reporting. Furthermore, we know that the numbers only show a small part of the picture and without the local interpretation of the data, it can very easily be taken out of context and misrepresented. For example, a foster carer may be recorded as having an empty bedroom which looks like they have a placement available. However, due to the needs of another child in their care, it may not be possible for them to take a second child.
- **National platform to support training and professional development:** National training resources could be made available without the need for a national register. Greater visibility of participation in learning or training at a national level could be a concern for foster carers and may feel like increased monitoring.

A common issue across all of these points is the lack of exploration of alternatives and clear justification as to why a national register is the best way to move forward. The policy memorandum outlines that discussions of a national register were not progressed in 2013 or 2015. However, it is unclear why they are now being progressed and what has changed since this point in time.

For fostering services, the most pressing concern currently is the crisis in retention and recruitment of foster carers. A national fostering register would not address this and would distract attention and vital resources away from meaningful work to address this.

If it was decided to progress with a national register, this would have cost implications for local authorities. For example, administrative costs to maintain the register and time implications for workers to update. It would also be an additional burden on the workforce, which as noted earlier, is already under significant pressure. Further work will be required to accurately cost the implementation of this.

## Chapter 3

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

#### *Single member panels*

There needs to be more clarity on when single member panels would be used and when it would not be appropriate.

The policy memorandum mentions Interim Compulsory Supervision Orders (ICSO) decisions being made by a single member panel in narrow circumstances. More information is required on this. While there are tight time constraints around these decisions, an ICSO can have a significant impact on the child, young person and family and there could be a question as to whether a decision this significant should be made by 1 person. We also wonder whether a single member panel may in fact cause delays, if the Chair is unwilling or unable to make significant decisions on their own.

#### *Appointment and remuneration of Children's Panel members*

Consideration of the recruitment of paid chairs is important. The children's sector is already experiencing a recruitment and retention crisis across key roles, including social workers. Introducing the role of paid chairs could exacerbate issues in the children's sector workforce, depending on the specification of the role.

The introduction of a paid chair will have implications for the power dynamics between panel members, and with those attending the panel. This could result in some panel members being influenced by other paid members, or feeling uncomfortable to give a different view. Depending on the specific qualifications or requirements of paid chairs, a review of processes may be required to ensure panel members are not involved with either families or other professionals that they know from previous roles. For example, if a former social worker moved into a paid chair role and knew the family or professionals involved in a hearing.

Generally, clarity is needed as to the specific qualifications and experience that will be required of paid chairs and the structure of the role, e.g. will it be full-time or a few days per month. This will impact on those likely to apply and the make-up of panels going forward. Currently, we know there are particular demographics of people more likely to volunteer as panel members. Consideration of how the role is structured will be important to ensure that more diverse groups of people are represented within the paid chair role and across panel members generally. For example, if it was a full-time position this may create a barrier for certain groups, such as those with caring responsibilities. An equality impact assessment should be considered to ensure these issues are thoroughly explored.

There is a lack of information relating to the possible introduction of 'specialist' panel members. Would they be a one-off appointment for only one hearing or would they be employed in a pool and called upon when their skills are required? The financial memorandum provides details on day rates, days worked and the number of paid Chairs, but no such figures are quoted for "Specialist" panel members, how frequently will they be used and, assuming they are paid, what specialist skills will they require.

There will need to be clarity around the use of specialist panel members to ensure that they are not used to undermine the multi-agency assessment already carried out, and to ensure that this does not lead to delays in making decisions for children and young people.

#### *Child's attendance at their hearing*

COSLA agrees with removing the obligation to attend hearings as it is not always in the child's best interest and the focus should be on ensuring their views and experiences are represented, in whatever way the child wishes this to happen. That being said, there may be situations where a panel need to obligate a child to attend, for example, in a youth justice case. Each individual situation needs to be considered in relation to the child's needs.

#### *Preparation and engagement with the principal reporter*

This introduction of a meeting with the principal reporter raises a number of questions as to their role within this process and the role of other professionals. An informal meeting with the reporter can already happen now without the need for legislation. If this is not happening in practice, then it may be possible to address this in other ways without the need for legislation.

Professionals involved with the child and family should be working with them to support their understanding of the process. Again, if this is not happening now then this could be addressed through practice improvements.

Children and young people are already required to attend a significant number of meetings, and this may feel like an additional burden. A meeting with the reporter at such an early stage could mean that the reporter is put under significant pressure in a setting where they have no specific powers, i.e. it would not be a decision-making forum. While there would need to be clarity as to what can and cannot be discussed during this meeting, it is likely that those involved will want to share their views of the situation, which would not be the purpose of the meeting.

#### *Process in relation to establishing grounds*

There are benefits to both children and young people, as well as the professionals involved, to have the option of not holding a grounds hearing if it is known that the



child/family won't agree. This is a really difficult and significant event for a child, which may be unnecessary if it will inevitably end up going to the sheriff. It also takes up a significant amount of professional time and can put a strain on relationships with families.

*The participation or non-participation of relevant persons*

We need to ensure the child is given every opportunity to be involved in their hearing, helping to ensure the parent's rights are not prioritised over the child's rights in both the Hearing and court processes. However, excluding a parent from a Hearing which will make significant lifelong decisions about their child is a serious matter and parents' rights also need to be protected, we are unsure how the bill ensures this.

*Tests for referral to principal reporter*

The change in wording from 'might be necessary' to 'is likely to be needed' is more reflective of practice on the ground, and the addition of 'support' represents the intention of services better.

*Information about the availability of children's advocacy services in relation to Children's Hearings*

This seems like a reasonable duty to put on local authorities (and others) and reflects current practice in terms of information on advocacy already being provided. Although there may be challenges in ensuring the offer of advocacy can be delivered if there are capacity issues.

*The sharing of hearings scheduling information with advocacy workers*

It seems appropriate that scheduling information is shared with advocacy workers, assuming that the child has in fact agreed for this to be shared and to the advocacy worker attending. COSLA would agree that no sensitive or personal information be shared.

*The duration of interim compulsory supervision orders and interim variations of compulsory supervision orders*

COSLA considers this a positive development, given that feedback from social workers is that this was a positive change during covid and should be kept.

*The Reporter's ability to initiate a review*

We are unclear in what circumstances the reporter would become aware of information that those working with a child or young person did not already know. There are already routes to initiate a review, and this could potentially undermine the powers that already exist for those involved in the child's life. More details and

scenarios on when and how often these new powers might be used would be welcomed.

## **Part 2**

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

The policy memorandum states that this change would enhance collaborative working and join up strategic planning activities across adult and children's services. However, IJBs do not deliver services, they commission or direct the local authority/ies and or health board(s) and it is therefore unclear how this change would achieve this. The workforce delivering the services would remain the same, and within the same organisations, therefore adding "relevant integration joint board" will not contribute to collaborative working or join up strategic planning. Local authorities and health boards deliver these services and already have clear duties relating to children's services planning. The purpose or benefit of this change is therefore unclear and risks adding unnecessary bureaucracy.

While other proposed changes in this act have been based on the consultations undertaken over the last year, this proposed change is not based on public consultation. The implications for Scotland outlined in the Children's Services Reform Research Concluding report published by CELCIS in 2024 set out practical, non-legislative steps required to achieve these aims. Among those, two points pertinent to this Bill are noted – "Scotland's cluttered legislative and policy landscape needs greater clarity and alignment", and aligning different planning and reporting arrangements.

Currently, joined up strategic planning, collaborative working and the development of services to children and families are hampered by the time and resource required to develop and submit a number of different plans and reports, including Children's Services Plans, Corporate Parenting Plans, Local Child Poverty Action Reports and the recent addition of reports to demonstrate actions related to the UNCRC. This change would do nothing to streamline this and would add complexity to the system, diverting practitioners and leaders from frontline considerations.

It is also essential to consider the broader implications of the Bill's proposals for the functions and services that fall under the strategic commissioning responsibilities of Integration Joint Boards (IJBs). As highlighted in Audit Scotland's 2024 report on IJB Finance and Performance, social care and primary and community healthcare services in Scotland are currently facing complex and escalating pressures. These include rising demand, workforce sustainability challenges, and intensifying financial constraints— further compounded by the cost-of-living crisis, increased service delivery costs, and a shifting policy landscape.

Complementing this, analysis by Health and Social Care Scotland identified a real-terms budget shortfall of £497.5 million across all 31 IJBs between 2024/25 and 2025/26. This financial gap raises significant concerns about the ability to consistently deliver national policies, meet strategic priorities, and maintain high-quality local health and social care services. Any legislative changes that expand responsibilities— particularly in children’s services—must be carefully assessed against this backdrop to avoid exacerbating existing pressures and undermining the sustainability of care provision across the lifespan.

## **Other**

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

#### **Secondary legislation and lack of collaboration**

The bill itself lacks detail and leaves a large number of significant changes to secondary legislation. This is concerning as it would not be subject to the same parliamentary scrutiny and could have been avoided if the Scottish Government worked closer with partners in developing the bill.

The lack of meaningful engagement and partnership working with key stakeholders during the development of the bill is a significant concern. Local authorities are key to delivering many of the changes proposed in the bill. The lack of information sharing prior to the bill being published means insufficient consideration of implementation.

Developing legislation without the knowledge and expertise of those delivering services on the frontline increases the likelihood of unintended consequences and ineffective implementation.

The Scottish Government was clear that the four consultations undertaken in autumn/winter 24/25 would inform the development of the bill. However, the bill was published before the analyses of two of the consultations were published. This led to a perceived lack of transparency as to why certain proposals were included in the bill and why others had not been taken forward and made initial analysis challenging.

#### **System readiness and sequencing**

There are a large number of changes happening across the children’s sector and thorough consideration of the sequencing and implications is vital. For example, aspects of the Children (Care and justice) (Scotland) Act are due to be implemented in April 2026 and there will be connections between some of these changes and the content of the Children (Care, care experience and services planning) (Scotland) Bill.

The Scottish Government has committed to introducing a Care Leaver Payment by April 2026. In addition, a joint action plan from Scottish Government and COSLA related to Reimagining Secure Care is currently in development, with expectations of ongoing progress on both contingencies and movement towards the vision of secure care over the remainder of this financial year.

This comes with some significant expanding and potential areas of work such as child sexual abuse and exploitation, unaccompanied asylum seeking children, children's rights in practice (in for example court settings), contextual safeguarding and wider matters such as consideration of potential mandatory reporting and output from the Scottish child abuse inquiry. Additionally, increasing evidence that since covid, levels of need have increased therefore the core work of local authority social work services, amongst other, has also increased.

This is just some of the ongoing policy, practice and legislative developments underway, all of which impact upon the same children's services workforce. Our local authority workforce is committed to improving the lives and experiences of children and young people that we support. To ensure they are able to do this, capacity for change must be well and carefully managed, especially where that same workforce will be continuing to deliver critical services at the same time. Clarity on the sequencing and implications of all changes is needed to ensure that timescales and expectations are realistic and achievable, and the policy intent of the changes can be realised.

Taking this into account, alongside the significant reliance on secondary legislation and lack of collaboration in developing the bill, a pause in this legislation may be wise.

Changes to the children's care sector should not be driven by parliamentary timescales, but by a clear evidence base and meaningful engagement on implementation. Those most affected if we do not get this right will be the children, young people and families currently supported by the various aspects of our care system. Time should be taken to research and analyse the proposals in partnership with Local Government and other stakeholders. This will allow any legislation to be as impactful as possible, and any consequences to be anticipated rather than unintended

# **SOLACE (Society of Local Authority Chief Executives and Senior Managers) Written Submission on the Children (Care, Care Experience and Services Planning) (Scotland) Bill, dated 29 September 2025**

## **1. Introduction**

SOLACE welcomes the opportunity to engage the Scottish Parliament on the *Children (Care, Care Experience and Services Planning) (Scotland) Bill*. As senior leaders in Scotland's local government, we are committed to delivering the Promise and improving outcomes for children, young people, their families and carers. We recognise the contribution legislative reform can make in achieving these aims, but also stress the need for coherence, clarity, and capacity in the system to ensure successful implementation.

This response draws on the views of our members and aligns with the issues raised by key partners including COSLA, Social Work Scotland, and local authorities across Scotland.

## **2. General Position**

SOLACE supports the overarching ambition of the Bill to improve support for care experienced children and young people. However, we share significant concerns about:

- The current fragmented and complex legislative landscape.
  - This is a cluttered legislative landscape, meeting the full aspirations of The Promise would be better supported with a fundamental reset of the legislation, rather than incremental additions.
- The lack of clarity and detail in key provisions.
  - There is a lack of clarity regarding the potential read across and/or conflicts with parental rights, the rights of children and young people, and human rights. The legislative intention needs to be made clearer so that it can be more effectively addressed through the primary legislation.
  - Clarity is needed regarding the interpretation and expectation of key components of the bill such as “aftercare need” in order to be able to more effectively assess practical viability of the intent of the legislation.

- The potential unintended consequences of extending statutory duties.
  - Incentivising state intervention as the primary route for individuals to use to access support that could be accessed through other routes.
  - Directing further resources toward care experienced young people creating a differential system, potentially at the expense of other equally vulnerable young people.
- The capacity and resourcing challenges facing local authorities and the social work workforce.
  - The financial pressures relating to this area of local government responsibility are well documented. Establishing the costs associated with the bill in its current form looks to be difficult to achieve, and we are concerned that this may result in additional unfunded or underfunded mandates for local government. It appears that the costings used are outdated, incomplete and do not reflect the real costs of implementation.
  - The Bill does not account for the current pressures on the social work and social care workforce – this is a highly regulated area and development of additional workforce capacity will take time and national coordination.

We advocate for a **streamlined and sequenced approach** to reform, ensuring that legislative changes are **evidence-based, properly costed, and deliverable within the current context**.

### **3. Key Themes and Recommendations**

#### **3.1 Aftercare Provisions**

We support the principle of extending aftercare to a broader cohort of care experienced young people. However, we caution against creating a system that incentivises formal care measures as a required gateway to access support. These risks undermining the principle of minimum intervention and GIRFEC.

**Recommendation:** Develop a continuum of support based on assessed need, not care status alone. Invest in universal and targeted services to reduce reliance on statutory intervention.

### 3.2 Corporate Parenting

The proposed expansion of corporate parenting duties raises concerns about overreach of the state and potential conflicts with parental rights. The current focus of corporate parenting allows a particular focus on delivering improved experiences for identified young people with specific needs for support. This allows clear focus on relevant pathways, services and entitlements to services. Net-widening is likely to result in loss of focus and dilution of resources. The inter-relationship between the proposed extended duty, Children's Services Planning obligations and UNCRC should have been addressed with greater consideration in the formulation of the Bill.

**Recommendation:** Retain a clear and evidence-based definition of "looked after" and "care experienced" in primary legislation. Avoid extending duties to individuals who have not been subject to formal care arrangements.

### 3.3 Advocacy Provisions

While advocacy is vital, the Bill lacks clarity on eligibility, delivery models, and funding. There is a risk of stigmatising care experience and duplicating existing services. Careful consideration of an implementation pathway will be essential to minimise disruption to those in receipt of existing services. Advocacy alone without allocation of sufficient resource to ensure capacity is in place to deliver the support being advocated for is unhelpful.

**Recommendation:** Pilot advocacy models and explore integration with existing adult services. Ensure any national framework is co-designed with local partners and adequately resourced.

### 3.4 Definition of Care Experience

We support a clear and consistent definition, but caution against overextension that would include individuals without formal care experience. Clearly defined statutory definitions aid transparency in relation to statutory entitlements, clarity on whether these are being delivered and allow proper assessment of the resourcing requirements for delivery. Maintaining clarity of the distinction between the role of the state and the role played by families independent of the state is important.

**Recommendation:** Define care experience with clearly defined parameters and transparently in primary legislation, ensuring alignment with existing legal frameworks and avoiding dilution of support.



### 3.5 Profit Limitation in Residential and Fostering Services

We support efforts to responsibly reduce profiteering in children's care but urge a phased and risk-assessed approach to avoid destabilising the sector. The current model of care provision in Scotland has developed iteratively over successive generations and providers outwith the public sector remain critical in ensuring the safe and sufficient provision of care. Care provision exists in a delicate balance which needs to be understood from all stakeholders' perspectives to avoid destabilisation, unintended consequences and enable mitigation of risk. There is insufficient detail in the Bill to properly assess how this aspect would be managed.

**Recommendation:** Undertake detailed planning and stakeholder engagement before legislating. Consider sector-wide consistency and learning from other jurisdictions.

### 3.6 National Register of Foster Carers

The purpose and value of a national register remain unclear. Concerns include data protection, cost, and whether some of the intended outcomes could be achieved through alternative (existing) mechanisms. It is recognised that the proposals could be beneficial for local foster carer recruitment and matching. Given the significant role that foster carers play as a key element of the children's social work and social care sector, as with other aspects of the Bill, more consideration of the proposals is required.

**Recommendation:** Conduct a feasibility study and consult with fostering stakeholders before progressing. Explore alternative mechanisms for improving oversight and safeguarding.

### 3.7 Children's Hearings System Reform

We support reforms that improve the child-centred nature of hearings. These must also be respectful of those professionals in attendance to support the panel in their decision making. Proposals such as single-member panels and specialist members require further scrutiny to ensure fairness, transparency, and independence, so that an appropriate balance of power is maintained whilst also avoiding unnecessary duplication of resource.

**Recommendation:** Prioritise cultural change and training. Ensure any legislative changes are supported by robust implementation planning and stakeholder engagement.

### 3.8 Children's Services Planning

The inclusion of Integration Joint Boards (IJBs) as lead planning bodies lacks clarity and may not enhance collaboration. The unique nature of the governance structure relating to IJBs make their inclusion as a statutory planning partner confusing. The Children's services planning function is delivered by operational staff in both the Council and the Health Board alongside other key local partners. Staff from across a range of services (internal and external to Health and local authority) are routinely engaged in the development of children's services plans, this includes staff within relevant HSCP services. The Bill is unclear as to the added value gained from introducing another statutory partner and loop of governance to the children's services planning.

**Recommendation:** Strengthen existing statutory guidance and governance mechanisms rather than duplicating duties. Focus on improving integration between child and adult services through whole family approaches, enhancing parent's access to critical support services as entitled adults, delivery of GIRFEC and improvement of age and stage transition pathways from children and young people services across health and social care to adult service provision.

## 4. Conclusion

SOLACE urges the Scottish Government and Parliament to:

- **Streamline the Bill**, focusing on areas with clear consensus and readiness for implementation.
- **Pause and review** provisions that lack detail or risk unintended consequences.
- **Engage meaningfully** with local government leaders and practitioners to co-design workable solutions.
- **Ensure adequate resourcing**, including workforce investment, to support delivery.

We remain committed to working collaboratively to realise the Promise and improve outcomes for Scotland's children and families.

# Care Inspectorate Response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill Call for Views

## Part 1 - Chapter 1 of the Bill

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

We welcome the widening of access to ensure that those who need it most receive support. This is an inclusive approach and has the potential to provide support and assistance to young people during transitions out of care. Whilst we believe there are potential benefits from this for care experienced people, we are of the view that given the current context in which the sector is operating, consideration needs to be given to the resource implications of this proposal. [Our findings from the Joint inspections of services for children and young people in need of care and protection Review of findings from the inspection programme 2018-2020](#)

“Transition processes between children’s and adults’ services were often experienced by young people as disconnected and complex. Those most disadvantaged by this were children and young people with a disability and care leavers. We saw the poorest outcomes for young people in continuing care and care leavers. Many young people were constrained in their ability to successfully move on to adulthood by difficulties in accessing services such as mental health and wellbeing services and suitable housing options. The GIRFEC approach, while well embedded across children’s services, was less well evidenced in pathways planning for care leavers.”

We have since reflected this within our joint inspections of services for children at risk of harm, reporting the increasingly difficult resourcing and staffing landscape. Further guidance and planning may be necessary to support implementation. We know from our [Transitions for young people: a thematic review](#) that until structural issues can be addressed which enable all young people to have access to essential services such as accommodation, that this could contribute to a further ‘log jam’ rather than a resolution. If we view it as separate to the provision of services, it fits well with the ethos of care experience being lifelong and is welcome in that regard.

It would be helpful to have more emphasis on the need for current and any enhanced aftercare provisions to be offered within the context of trauma informed and person-centred planning and delivery. This would be in keeping with the ethos and intent of the Promise messages.

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

The proposal needs to reflect the position that we wish to formally recognise care experience as lifelong, rather than ceasing at the age of 26. As part of our corporate parenting responsibilities, we have removed the 26-age limit as a barrier for further participation of care experienced individuals, and have worked towards recognising care experience as lifelong. This reflects our position outlined in our [response](#)

Further outlining the definition of ‘formerly looked after children’ would be of benefit. Moreover, this does not reflect current language as told by many care experienced individuals who were consulted as part of the independent care review. The term ‘looked after’ should be changed to reflect trauma informed language.

It would be helpful to have more emphasis on the need for current and any enhanced corporate parenting provisions to be offered within the context of lifelong trauma informed and person-centred service planning and delivery for individuals with care experience. This would be in keeping with the ethos and intent of the Promise messages. Complex trauma experienced during childhood development has lifelong impact. Entitlement to health, essential services and wellbeing supports based on chronological age definitions can be discriminatory in this regard as they presume a notion of developmental maturity which cannot be universally guaranteed.

### **What are your views on the advocacy proposals set out in the Bill?**

Please provide your response in the box provided.

We welcome the intention to ensure that all care experienced persons should have access to independent advocacy. Our most recent overview of arrangements for support for care experienced young people, published in Joint inspections of services for children and young people in need of care and protection [Review of findings from the inspection programme 2018-2020](#)

“Not all care experienced young people experienced the same opportunities to give their views to support service development. Independent advocacy was not used as widely as it could have been to support young people to be heard.”

We have since reflected this within our joint inspections of services for children at risk of harm, reporting a complex and patchy advocacy landscape. Changing demographics has increased complexity, with some local areas struggling to access appropriate translation services. Further guidance and planning may be necessary to support implementation.

It will be important to give recognition to the significance of relationships within the provision of independent advocacy, and how these relationships are able to be maintained with advocacy services for young people who may move a distance across the country. Equally important is ensuring that all advocacy workers have sufficient skills, knowledge and experience of using a range of alternative and augmentative communication tools, including British Sign Language, to ensure accessibility of access and that the ‘quieter voices’ of young people are being listened to.

It would be helpful to be more precise on what is meant by ‘independent advocacy’. This can be misunderstood to include a third party (usually an adult) known to and representing the child or young person (such as a professional, carer or family member). Such a person may believe that they are able to give an independent view on what’s in the best interests of the child and represent their views. This is not the same as formal independent advocacy provided by a trained advocacy worker and independent of any other professional or familial relationship with the child. It also

needs to be recognised that lifelong advocacy provision for individuals with care experience will impact on existing advocacy services provided for adults as well as children. A level of realistic further investment will be required for children's and adult advocacy providers.

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

Please provide your response in the box provided.

It was evident throughout our publication [Transitions for young people: a thematic review](#) This reflects our position outlined in [our response](#) to the [Developing a universal definition of care experience consultation](#) It is important that those with care experience, who wish to be recognised as such, see themselves within an inclusive and sensitive definition. Any guidance requires to be complementary with the range of legislation currently using definitions to support provision of services to individuals with care experience. Any new guidance/definition should include children and young people who have been legally adopted as well as those who live/d in 'formal' and 'informal' kinship family arrangements.

We recognise that this may enable more people to receive the support they need and that access to support may be easier if pathways are made clearer. It may support improved consistency across agencies and service providers; assist with research and data collection; and promote inclusion. We would suggest it may be helpful to connect with Each and Every Child on this area, to ensure work is aligned. Part 1 - Chapter 2 of the Bill

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

Please provide your response in the box provided.

In Scotland, we have seen a rise in services registered for profit and currently the Care Inspectorate has no locus to review this. There is a critical need to see any profits made by an organisation to go back into improvements in staff pay, staff training, and the upkeep of high-quality environments.

Whilst we are supportive of the ideology of this proposal, we would suggest caution be exercised in the consideration of any potential unintended consequences on the residential childcare sector. Learning from the action being taken by the Welsh government may be beneficial in this regard.

Consideration should be given to how this proposal would work for organisations who are based in other parts of the UK, but provide residential childcare services in Scotland.

It would be helpful to understand specifically which service types (aligned with the schedule 12 review) this would apply to, and how these proposals are to be monitored in practice.

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

[Our response](#) details our evidence and knowledge of the challenges facing foster care, including recruitment and retention of foster carers, remuneration and training, and support offered by foster care agencies. We noted that some independent agencies are more successful than local authorities in recruiting foster carers. This is often due to more favourable terms and conditions and the level of support available to foster carers. This should be taken into account when giving consideration to the proposal to require fostering services to be charities.

We would suggest caution be exercised in the consideration of any potential unintended consequences on the sector of this proposal. It would be helpful to understand how these proposals are to be monitored in practice.

It will be important to ensure that this aspect does not take focus away from the need to further invest in trauma informed training and supports to foster carers and all the children living in a fostering family, including the biological children of the foster carers. This is an overarching priority articulated in the Promise.

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

Please provide your response in the box provided.

The recruitment and retention of foster carers (numbers are declining across the country) is a current concern. There is a shortage of carers to meet the needs of children who cannot be cared for at home. We are seeing a small, but significant, rise in the number of young children being cared for in care homes due to lack of availability of foster carers. It will be important to ensure that any registration requirements do not cause further detriment to this situation.

It would be helpful if the wording regarding this section had more of a focus on the needs of children and young people. Section 30 c, 2b(ii) would be enhanced by reference to the needs of children and young people cared for by foster carers. It would be helpful to further articulate how this aspect will benefit children living in the fostering family and the carers themselves. It will be important to ensure that this aspect does not take focus away from the need to further invest in trauma informed training and supports to foster carers and all the children living in a fostering family, including the biological children of the foster carers.

Clarity will be required on which organisation would manage a register of foster carers, with consideration given to the potential resource implications of this. If this proposal was to be implemented, it would require an understanding of what training is needed to maintain a high standard of practice at a national level. There is a risk of gaps emerging at localised levels where some foster carers are better equipped than others due to resourcing issues.

Part 1 - Chapter 3 of the Bill

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

The introduction of one-member sittings is a useful addition and has the potential to expediate decision-making.

The overarching priority is that decisions made by the children's hearings tribunal are trauma informed and child centred. Whatever the make-up of the panel, the legal decision makers require to be confident and skilled in their understanding of child development, the lifelong impact of childhood trauma and the complexity and intersectionality of needs experienced by children and families where compulsory supervision orders are deemed necessary to safeguard and support them.

Part 2 of the Bill - Children's planning

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

Please provide your response in the box provided.

It will be helpful if these changes improve focus on, and increase effective delivery of, holistic and trauma informed universal and specialist health, education and support services for children experiencing care, their families and carers. Anticipation and planning for a child's wellbeing needs at all points of transition in their lives (such as moving to new family settings and schools, as well as to adult services) will hopefully be enhanced by an additional joined up approach and corporate governance expected at Integrated Joint Board (IJB) level.

Any other comments

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

Please provide your response in the box provided.

There are no references in this bill to overlapping policy drivers such as children's rights (UNCRC), Getting it Right for Every Child (GIRFEC) and Keeping the Promise. To achieve the ambitions set out in this bill we would suggest specific reference to the synergies of other policy drivers rather than this sitting in isolation.

# **Scottish Social Services Council (SSSC) Response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill Call for Views**

## **Information about your organisation:**

The Scottish Social Services Council (SSSC) is the regulator for the social work, social care and children and young people workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled, confident and valued workforce.

We protect the public by registering this workforce, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

## **Question 1:**

We welcome these proposals. These proposals align with the Promise and wider corporate parenting duties. The extension of aftercare is one of the most complex provisions within the Bill. The costs are expected to increase gradually over the next few years.

At this stage the Financial Memorandum can only make an assumption for the proportion of the eligible population but – setting aside the question about the exact numbers - local authorities will require significant staff time to undertake assessments and the actions to support the young person. Our view is there is likely to be significant challenges around recruiting, retaining and developing the required numbers of employees to deliver these proposals. This is a recurring challenge for the workforce and has featured in several recent discussions such as the expansion of funded Early Learning and Childcare and the right for unpaid carers to take a break from caring.

As the regulator we develop and share unique insights into the social work, social care and children and young people workforce in Scotland. Our data highlights how local authorities and other services are continuing to recruit, retain and develop the number of number of professionals they need to meet demand. A summary of some of our key data sources follows.

- There were 176,781 people on the SSSC Register in March this year, which is an increase of 8,549 or 5.1% on April 2023.
- As of December 2023, 48% of registered care services report having staff vacancies. In 12 of the 32 local authority areas, 50% or more service reported vacancies.
- In July 2025 we published the findings of the latest six-monthly survey on the numbers of Whole Time Equivalent (WTE) social workers and social work vacancies. The report has data from all 32 local authorities and is a snapshot as of December



2024. There has been 10.9% increase in the WTE of practising social workers since December 2020. This figure is a 2.4% decrease compared to June 2024. Between June and December 2024 the WTE of children and justice social workers decreased.

#### Wellbeing and leavers data

- In April 2025 we published our first Have your Say Workforce Wellbeing Survey Report. The report is based on 6,500+ responses from registered workers. We also published a leavers survey based on data from over 2,000 people who left the Register between August and December 2024.
- These reports add to our understanding and to some extent confirm what we already know. Many people working in the sector are satisfied with their current job, enjoy making a difference and recommend their current employer. They also highlight challenges faced by people working in these services.
- The reports confirm that many people in this area experience heavy workloads and time pressures. Many highlight increased stress levels.

#### Summary

We welcome these proposals. None of these points detract from our key messages about the critical and life changing work undertaken by these skilled professionals, or our strong support for extending aftercare. It is important to include this evidence as the workforce has a clear role to play in delivering on the aspirations of the Promise and the Bill. We have included the links below and are happy to provide a greater overview of our data and findings if that would be helpful.

#### Sources

- Care Inspectorate and SSSC (2025) The 2023 Staff vacancies in care services report
- SSSC (2024) The Scottish Social Services Council Register, 1 April 2023 – 31 March 2024
- SSSC (2025) Social worker filled posts and vacancies six-monthly survey Analysis of the data from December 2024
- SSSC (2025) Leaver Survey report
- SSSC (2025) Have your say survey
- All reports on data website, <https://data.sssc.uk.com/data-publications>

#### Question 2:

We have nothing to add to our response to question one.

#### Question 3:

We welcome these proposals. A legal right of access to advocacy service is a critical part of the Promise.

#### Question 4:

We welcome these proposals and look forward to contributing to the engagement process. We are one of many public bodies that have developed our own definition

and approach to supporting people with care experience. Developing a definition has been partly linked to our corporate parenting role and is partly about how we encourage and support more people with care experience to begin and develop a career at the SSSC. We would welcome guidance which will help us to collectively promote and develop a better understanding and awareness of care experience.

The Care Review highlighted some of the challenges around terminology, noting that language such as 'corporate parent' and 'system' can be demeaning or unhelpful. It will be critical to consider these points within the guidance as part of developing an inclusive and supportive approach.

**Question 5:**

No comment.

**Question 6:**

No comment.

**Question 7:**

**Register**

The foster care consultation set out the key purpose of a national register. These include steps to 'increase public protection, improve ease of mobility across fostering agencies and increase safeguarding for children.'

The foster care consultation notes that the key aims include 'bringing foster carers in line with other parts of the children's workforce who are registered and regulated.' We know that the nature and structure of foster care is different from the wider children's services workforce and many foster carers might not identify with that term.

Some respondents to the consultation highlighted the potential for the SSSC to maintain the registration. Many of the core objectives of the National Register are similar to the SSSC's approach to registration but there are significant differences, one being that the SSSC is required to charge a fee for registration.

Another being in relation to matching. The policy memorandum notes that one of the objectives of the register would be to:

'Enable local authorities to find and commission placements more effectively, improving matching for children in care', This is a role that the SSSC does not carry out in any equivalent fashion for the registered workforce.

There are several questions and areas that must be considered as part of the proposed national register. For example, foster carers – unlike many people working in children's services - are self-employed. Consideration must be given to how the register aligns with the Care Inspectorate's regulatory role and the role of local authorities. Further thought would also need to be given to other areas such as access to the register. We anticipate that these points would form part of the wider

engagement, assessment and business case for a national register.

### **Data on foster carers**

The foster care consultation noted that a national register could ‘provide meaningful live data to drive commissioning and recruitment planning.... (and) could inform workforce planning and development in addition to supporting foster care recruitment planning.’

We strongly support this view. Our data on the SSSC registered workforce supports national workforce planning and has played a key role in policy initiatives, such as helping to shape and inform the national expansion of funded early learning and childcare.

### **Learning and development**

The provisions in the Bill would support the learning and development of foster carers.

Several responses to the Foster Care Consultation highlighted the Foster Care Standards developed by the SSSC in 2017. Take up of the standard has been mixed, with some respondents noting that it forms a key part of training programmes, others noting they have not used it and some noting that the content requires a refresh. Some of the areas that would require an update – such as references to trauma informed practice – have been a key priority for other areas of our work such as the refreshed Codes of Practice for Social Service Workers and Employers.

Some respondents to the foster care consultation noted that the learning and development needs of foster carers could be linked to the national register. The Standard and wider learning and development for foster carers is something that could potentially be considered prior to or alongside the development of the national register.

We welcome the opportunity to share our experience and help inform the Scottish Government’s thinking around the development of a national register for foster carers.

### **Question 8:**

We welcome these proposals. These changes will have several key benefits, such as keeping the Promise, promoting a Trauma Informed Approach and delivering on the recommendations in Hearings for Children: Hearing System Working Group’s Redesign report.

### **Question 9:**

No comment

### **Question 10:**

No comment

# **Social Work Scotland and SASW Response to the Children (Care, care experience and services planning) (Scotland) Bill Call for Views**

## **Introduction**

Social Work Scotland is the professional body for social work leaders in local government and wider care sector. We exist to shape policy and practice, in order to improve the quality and experience of social services in every part of Scotland. Chief among our members' priorities is delivery of the Promise, and taking advantage of this unique political opportunity, secured by children and young people's voices, to transform how we support families and keep safe those at risk of harm. For social workers, delivery of the Promise is not a narrow concern; it is central to realising our collective national ambitions to reduce child poverty, close the educational attainment gap, and improve the population's health and wellbeing.

We therefore welcome all opportunities to make progress on the Promise and are grateful for this invitation to inform the Committee's scrutiny of the Children (Care, Care Experience and Services Planning) (Scotland) Bill (from herein "the Bill"). We will also be responding to the Finance and Public Administration Committee Call for Views on the Financial Memorandum. Our submission is drawn from wide engagement with our membership, including the thirty-two local authority Chief Social Work Officers, service and team managers from across the country in all sectors, and social workers directly involved in the delivery of services to children and adults. This represents a cross-section of a social work workforce, across local government, integrated partnerships, and the voluntary sectors, who are central to successful delivery of the Promise.

## **The case for new legislation**

Our members are clear that new legislation is a necessary component to delivery of the Promise. We currently operate within a framework of legislation built up incrementally over nearly sixty years. Additions have not always been constructed with an eye to overall coherence, nor has sufficient attention been given to the system's central operating principles, as set in the foundational Social Work (Scotland) Act 1968 and Children (Scotland) Act 1995. Law has been conceived with the best of intentions, designed to address real and specific issues, but has resulted in a sprawling, labyrinthine edifice, through which professionals, including lawyers, struggle to navigate. For children and families, it is impenetrable, which undermines their personal agency and rights. This has been well documented by the Independent Care Review, and raised repeatedly by the Promise Oversight Board, Promise Scotland, CELCIS, ourselves and others.

This legislative framework now stands as an obstacle to social work and others delivering on the agreed national vision - the Promise. Among the concerns of Social Work Scotland members' is the extent to which the current legislative framework has stretched a finite social work resource over increasing groups, to make up for deficiencies in universal services, such as support for learning, health and housing.

This is inconsistent with the vision of the Promise, in which families are supported as much as possible out with statutory social work provision, reducing the need for formal interventions or measures of 'care'. The Promise emphasises that legislation should facilitate children, families and adults to access the support they need when they need it, from those best placed to provide it; an emphasis that aligns fully with Scotland's overarching children and families framework, Getting it right for every child. Social Work, in this context, provides input where our specific remit and skills are required, often where situations are complex or where risks to the wellbeing of children are evidenced. This is most often undertaken in partnership with other disciplines. The emphasis for all public authorities is on working with families, with legal interventions in family life being pursued only where absolutely necessary.

This Bill, like much recent legislation, pushes the system in the opposite direction, encouraging formal involvement in the care system. For example, by making eligibility for financial and educational assistance for young people contingent on a period in care at any age, it incentivises the application of statutory or voluntary measures of care. Being 'in care' becomes a passport to resources and benefits you cannot otherwise access. SWS queries if this is consistent with the vision set out in the Promise. The Scottish Government is correct in its analysis that care experienced young people in Scotland would benefit from additional support as they transition into adulthood, and as Scotland's biggest corporate parent, it is right for Scottish Government to seek to improve provision. However, the approach, evidenced in this Bill, is to address the limitations and inadequacies of the current system by expanding it, pushing further against Scotland's core approach and stretching local authority responsibilities and social work resources ever further

SWS agree that legislation is needed to deliver the Promise, but in our view the legislation that is needed is something more consequential than this Bill represents. It is nearly thirty years since the Children (Scotland) 1995 Act came into force, and just as that Act brought the system created in 1968 up to date, a similar re-set is required now. Legislation which brings greater clarity and alignment, rather than the tinkering that make up this Bill. For social work, a key objective of the re-set would be to (re)articulate the principles which underpin the system and specifically to what extent, the "minimum intervention" principle still holds. This foundational principle is set out in the 1995 Act and elsewhere, and states that a public authority should intercede in a child's life only to the level needed to safeguard their welfare and wellbeing. This does not mean that the state provides only the minimum level of support, but rather that the state should not formally intervene in family life unless this is required to keep the child safe and well. Part 1 of this Bill contradicts this principle incentives state intervention with an objective to secure local authority social work support for as many young people, for as long as possible, rather than to skill and resource universal and partner services to meet increasingly complex levels of need.

A fundamental review and re-set in our legislative framework would allow for the Scottish Parliament to consider, with the public, the expectations of state provision and the role of social work in the 21st century in respect of children and families, including whether GIRFEC and the principle of minimum intervention remain our foundation, and the powers and resources local authorities would need to fulfil those expectations. As a profession and public service, social work is currently caught

between competing priorities. On one hand the Promise, and a call to minimum intervention, keeping families together wherever possible, supported by universal services. On the other, rising concern about the levels of risk being held within families and communities, and calls for us to act more quickly and decisively. These priorities are not incompatible. Social Work has managed this tension for decades, but needs legislation which assists us, rather than making the job more difficult. We are worried this Bill does the latter.

It has taken Scottish Government five years to bring forward legislation to facilitate delivery of the Promise, and in that time there has been little appetite for discussing or addressing the kind of issues set out above. We know that it is not through a lack of effort on the part of the sector, including the Promise Scotland. Our hope is that the Scottish Parliament, in the scrutiny of this Bill, emphasises to Scottish Government how important it is that such work now begins in earnest, and as soon as possible. A reduction in national policy activity over the next few years is a welcome price to pay for ensuring the foundations of our system are fit for purpose.

## **Specific concerns relating to the Bill**

Social Work Scotland has been public in our support for the Promise, and our commitment to improving the systems which make up our care system, with the consequent improvement in the quality of experience for those in receipt of that care. Our organisation has at its core a remit to support leaders in social work to facilitate and enable good social work practice, thereby improving the lives of those we work with. Alongside this is extensive partnership work across local and national government and agencies to influence policy development to ensure that it translates into practice and the desired changes and improvement. For a workforce whose code is based on human rights, dignity and empowerment, the Promise is a once-in-a-generation opportunity to fulfil the mission social workers came into their jobs to do: to make the lives of children and families better. We are committed wholeheartedly to making the Promise a reality.

Unfortunately, we do not consider that the specific proposals in the Bill will achieve their desired aims. We have set out above our concern about the continued drift away from the foundational principles of the 1995 Act, and GIRFEC. But the Bill also lacks detail around key proposals, with significant areas left to secondary legislation and guidance. As with the National Care Service (Scotland) Bill, such an approach asks Parliament and stakeholders to trust Scottish Government with the powers to address an issue in the future, in a manner – and at a cost - as yet undetermined. The award of such powers to Ministers should be on the basis of Parliament's scrutiny of detailed plans (and financial memoranda), rather than promises of further exploration and potential, unspecified action. We note that even where Ministers hold these powers for action, those actions are not always progressed, with the Children (Scotland) Act 2020 a recent example.

The Bill also adds to the general 'clutter' of the legislative landscape - something the Promise noted as a problem. With the Children (Care and Justice) (Scotland) Act 2024 and the Children (Care, Care Experience and Services Planning) Scotland Bill, we add two more pieces of legislation to the 44 pieces of primary legislation, 19 pieces of secondary legislation and 3 international conventions originally identified by

the Care Review. As we have noted above, the Children (Scotland) Act 1995 provides an example of how major, system-changing legislation can be successfully developed and implemented: a period of review, clear and comprehensive consideration alongside partners of changes which would improve provision, followed by a single set of legislation and guidance which was clear, easy to follow, and available 12 months in advance to facilitate agencies' readiness – including funding, processes, and training.

In our answers to the specific questions asked by Committee's we underline the importance of sequencing the implementation of new legislation. This is critical to ensure that the policy intent of proposed changes is able to be realised. Legislation and policy is translated into reality by human beings who may simultaneously be having to implementing other new duties or policy initiatives. The size of the social work workforce has remained largely static for the past decade, despite a steady increase in the number of duties for which they are responsible. Where changes to systems are planned it must be done so with an eye to what else is going on, impacting on the children's social work sector and wider profession. The importance of careful consideration of what is required to achieve the Promise, including the necessary time, has been highlighted in previous responses to the Committee. Relevant to this point is current activity to implement the remaining aspects of the Children's (Care and Justice) Scotland Act 2024, work to take forward the non-legislative aspects of redesigning the Children's Hearing System and the Reimagining Secure Care work. These pieces of work are equally important to realising the Promise, and to the development of a more trauma informed approach to children's care.

Social Work Scotland is supportive of improvements in these areas but underline that policy and system change is a demand on the workforce., Change requires planning, investment, time and people, all of which are immensely challenging to find in a sector and workforce that is depleted and struggling . The sector is having to respond, prepare and deliver an unprecedented level and pace of change, while continuing to provide services to children and families. Few organisations or systems could absorb this level of transformational change without it impacting on service delivery. With reference to this Bill, SWS is of the view that pushing such changes through 'at pace', to meet a primarily political timescale, will undermine our ability to deliver on the policy intent, and impact negatively on children and families.

### **Current context for local authority social work services**

The centrality of the workforce is reflected in the Promise pillars. This Bill comes to Parliament in a context where social work services are facing challenges not seen since the establishment of the current framework of local area based social work provision, in the 1970's. We have previously profiled to the Committee the staffing shortages and retention problems in social work, the issues with recruitment of foster carers, access to secure placements and alternatives, and increased demand for support as a result of greater levels and complexity of need. Our workforce is also still adjusting processes and practice to the world which has emerged following the Covid 19 pandemic, and the ongoing, cumulative financial pressures. Underfunding, and the current short-term, highly specified approach to funding exacerbates stresses in the sector, including undermining the essential partnership between

public and voluntary sectors. Recent years have also seen a steadily growing implementation gap between national policy ambition, levels of investment, and local capacity to deliver, all of which represents cumulative pressures on staff, and our childcare and wider systems. These are documented reasons why children and families social workers are despairing, and choosing to move to other areas of social work or out of the profession entirely.

The international context adds to this picture. While Scotland must continue to welcome anyone requiring sanctuary, we must also acknowledge the systems pressures resulting from the numbers of unaccompanied asylum-seeking children and other international developments. Our care population has fundamentally changed since the Promise launched in 2020, and some local areas estimate that almost a third of children in their care are now unaccompanied asylum-seeking children. Many of these young people have experienced specific trauma, and the support provided must also be culturally and linguistically competent. The demands of adjusting our systems to meet the needs of these children are considerable – and being undertaken in a context where the total number of children and families social workers has decreased over the past five years, from 2,536 to 2,478.

SWS very much welcome the steps Scottish Government is taking to establish the National Social Work Agency, and its participation alongside ourselves and COSLA in the Scottish Social Work Partnership. The focus of both the new Agency and Partnership is on stabilising and then rebuilding the social work workforce, understanding that the care system is in essence the people who work in it. The pathway to successful realisation of the Promise is through the workforce, and the Agency and Partnership will hopefully ensure that national and local activity is focused on that priority. Indeed, if the National Social Work Agency was in place now, bringing oversight to the Scottish Government's social work policy agenda, we wonder if this Bill would currently be before Parliament.

### **Concluding remarks**

Delivering the Promise continues to enjoy cross-party support in Parliament, and we therefore question the need to rush this Bill through, as the limited time before dissolution of parliament and the 2026 election suggests may happen. As recent developments around secure care following commencement of aspects of the Children (Care and Justice) Act 2024 have illustrated, any change to our highly interconnected and interdependent care system needs to be carefully worked through, risk assessed and properly costed. While some specific parts of this Bill are welcome, if Scottish Government is committed to the foundational aims of the Promise, including simplifying the legislative landscape, the threshold for new duties and legislation should be very high. We believe that all reforms should be assessed against a test of whether, from the perspective of those working with children and families, this reform makes it easier or harder to realise the Promise. Scotland's children and families social work leadership have not yet been asked this question in relation to this Bill.

Given all the issues and concerns outlined above, Social Work Scotland encourages the Committee to interrogate whether all parts of this Bill must be progressed now. A strong case may be made for progression of the reforms to Children's Hearings, but



in other areas, where the legislative prescription is poorly conceived, or where detail is absent, a pause may help facilitate better policy making, involving the people who will be responsible for translating the law into reality, thus better meeting the needs of those we exist to support. SWS and other partners are eager to work with Scottish Government to define the issues, identify options and their costs, and assess their viability and chances of success with particular reference to the realities of the current context, and the many interdependencies which exist in the children's care system. The world has changed significantly since 2020, and the steps we take today to realise the Promise need to reflect those changes.

Streamlining the Bill will also give Parliament and stakeholders opportunity to give more detailed scrutiny to the remaining parts, increasing the chances of the final law being balanced, robust and implementable. A streamlined Bill would also help with the sequencing of the many changes already underway and go some way to upholding the call by the Promise call for a simpler policy and legislative landscape - a smaller, tighter Bill may result in a both a better Act, and more sustainable improvement on the ground.

Ultimately, however good the words or intentions in a Bill or Act may be, without the resources and in this case specifically the workforce required to implement them, they will not deliver change. Such legislation risks placing further pressure and stress on an already stretched workforce, undermining their ability to deliver today's services, let alone innovate towards tomorrows. That means further delay in the transformation of services which the children and families of Scotland have been promised.

### **Question 1:**

SWS members support the principle of young people with experience of the care system being able to access appropriate support in early adulthood. There are however significant concerns about the practicalities, equity and legality of the proposals contained within the Bill, and whether the proposed extension of aftercare duties will increase rather than decreases the existing stigma related to the ter 'care experience'.

### **Issues and points raised are:**

- Concerns about what evidence will be required to demonstrate that an individual has care experience, and how will they know where to find this. This is especially important given the amount of movement around the country, particularly for those who may have been in care when they were very young. Our recent experience supporting individuals to access records, in order, for example, to apply to the Historical Abuse Redress scheme, also suggests that such evidence gathering activity is a considerable administrative and social work task, with commensurate costs. The administrative aspects are predictable; less so are the planning and support which must be built around every case, where sensitive information may be disclosed. Such complexities highlight the importance of thinking through clearly the practicalities of translating this policy into a workable system.
- A concern that we are creating a system where we incentivise being in care in order to access additional support as young adults. This fundamentally conflicts with the

Scottish policy and legislative foundations of minimum intervention/no order principles and GIRFEC. Members also note that local authority social work services are working with many young people without recourse to formal measures, and these young people have needs as great as many who are or have been in care. The introduction of broader criteria for accessing aftercare would create a two-tier system, where some young people, potentially with equivalent or greater levels of need, are excluded. Members describe such a two-tier approach as 'feeling wrong', particularly as many looked after children return to their families in young adulthood. While social work is able, on a discretionary basis, to support young people who have not been in care, the reality of how legislation is (under) funded means that an increasing proportion of local authority resources will go towards the statutorily 'eligible' children, at the expense of others.

- Any need could be defined as an after-care need, but members note that most needs will not be within the gift of the social work/aftercare teams to meet e.g. housing, benefits, mental health challenges. Members query what the definition of 'aftercare need' might be, and whether many needs would be best met by other services. To properly address the challenges faced by young people transitioning to adult, the priority should be improving referral and access routes for this population into other services e.g. NHS, and upskilling the workforce of other corporate parents to allow them to better identify and address needs.

- SWS is very concerned about any extension of the definition of 'care leaver' to encompass the broader idea of 'formerly looked after', and the inclusion as part of this of young people who have never been formerly looked after e.g. many of those subject to Kinship Care Orders. To intervene in the lives of a child or family is a serious step, and one which local authority social workers do not take lightly. Where that intervention involves removal of a child from their family home, this is a major interference in the parental rights which are a foundation of our family law. Any policy which changes the incentives around state intervention in a child's or families' life, whether intentionally or not, must be tested rigorously, to ensure the benefits outweigh potential risks.

- Including all those who have been subject to a Section 11 Kinship Care Order (KCO) requires further careful consideration in the light of the above point – many children subject to a KCO may never have had contact with the state care system. This is explored further in the question relating to definition of care experience. SWS is of the view that there may be a fundamental human rights issue at play here, which runs counter to the wider policy direction of family and community empowerment, rights, and early intervention.

- Extension of the right to aftercare or assessment for aftercare to anyone who has been in care, and to many who have not, is a huge group. Access to aftercare assessment, and the resultant aftercare services for the extended group, will be difficult to resource, there being no real data available around the potential numbers - especially those who were looked after when they were very young. The Scottish Government priority around whole family support and lifespan provision would further support consideration of both provision of support and funding in this area, connecting adult and children's focused policy.

- There is general concern that provision for various groups is being 'siloed' and that a system is being created where there is one approach for children living at home in their families, and a different one for those in care and those who have left care. While efforts to extend support to care experienced people are both necessary and desirable, the further development of a two-tier system for children and families feels messy, inequitable, and fundamentally against the principles of our frameworks for care in Scotland – GIRFEC and the Promise.

- Members additionally query if we are judging and limiting our young people by giving an (inaccurate) message that because of experiences which led to time in care, they are care experienced and 'harmed for the rest of their lives'. Some members suggest this has connotations of excessive state interference in family life.

- Without taking away from the need and appropriateness of post adoption support, the message these provisions give to adoptive families also seems confused and problematic. Essentially, the law would say that we will empower, trust and support you to be a family up until the child is 18 years of age, but after that the child can come back into parameters of the social work system for support. SWS do not doubt that there are many adopted children and families who would welcome more support, but question whether these proposals are the right way to provide that support, and whether they are consistent with other messaging.

Fundamentally, while keen to see all young people able to access the support they need to thrive, our membership question whether extending the right to assessment for aftercare is the right way of achieving this. It could increase the stigma still linked to the term and push young people into declaring their care experience, or seeking to have their experience defined as care experience, in order to access the support they need. This is particularly the case when mental health and housing services, primary areas where care leavers often require support, are in crisis. These proposals risk making 'care experience' into a passport to (potentially) access services not available to other young people.

SWS would advocate wider consideration of the aim of the policy and how support in adulthood might be available, including upskilling universal and targeted adult services to better understand the impact of trauma in childhood on young adults, and the experiences which may result in a child becoming looked after. While more complex to achieve than extending eligibility for assessment, this would result in a more informed adult workforce which also benefits a wider proportion of the population and enable the needs of care leavers to be met without stigma. It would also be beneficial in meeting some of the wider government aims such as tackling poverty, and whole family support.

Additionally, SWS is seriously concerned that much detail is left to secondary legislation, thus minimising scrutiny, and opportunities to explore any unintended consequences. Should the proposals progress, there will be a need for the guidance around all of the above to be particularly clear and to involve in design and development those who will be applying the guidance, to ensure its usefulness and application in practice.

SWS will respond to the financial memorandum but note here that:

- There is no provision made for delivery of 'advice, guidance and assistance' services which may result from the assessment for need for aftercare provision. This is primarily in the form of social worker or other social work staff time. From our member's experience, this is often the most important aspect of the support we can provide young people; a relationship, and human source of support and guidance and a role which is even more important if the financial support for young people is increased. The day-to-day realities of delivering 'aftercare' are often extremely practical and relationships based - assistance in opening up a bank account or joining a young person in making decisions about how to furnish their accommodation. There is almost no recognition of this and the humans who provide the service in the financial memorandum.
- The figures used to determine the costs of an assessment have been lifted from material provided to Scottish Government by SWS and Cosla for the Children's (Care and Justice) (Scotland) Act 2024 in relation to children's hearings. Assessment for aftercare involves different processes and these figures do not transfer. They are also now two years out of date, and currently being updated as part of work to implement the remainder of the Children's (Care and Justice) (Scotland) Act 2024.
- The £4,000 quoted as housing 'set up' costs is considered to be inadequate, and largely irrelevant at a time of a national housing emergency. The primary pressure facing local authorities and young people is access to housing, not the ability to furnish them.

## **Question 2:**

The Bill sets out extended corporate parenting duties in relation to a range of groups. This includes duties to children who have periods of time in care or are looked after at home, for the rest of their childhood and through the aftercare period, regardless of whether state intervention continued or they were adopted, or subject to other non-state care permanence options –including a return home to their parents.

SWS has serious concerns about the corporate parenting provisions in the Bill, including a potential rights issue.

Members appreciate and align with the desire to ensure that children and young people in Scotland receive the right support at the right time, and SWS is committed to this under-pinning principle of GIRFEC. This is also reflected in the minimum intervention principle which shapes social work systems and practice.

The suggestion that children, for whom there is no need for state intervention, be subject to corporate parenting duties by a range of agencies, is in our view in contradiction to these legislative principles. It may also infringe on parental rights if the state has a say in a child's care and life, even though children and their parents are no longer involved with the care system and are assessed as no longer requiring this level of support. Examples include:

- A child adopted as an infant. While the support needs of adopted children are well evidenced, and there is much room for improvement in this area, this is already

provided for within both GIRFEC and post adoption support duties, neither of which conflict in any way with the parental rights of the adoptive parents.

- A child cared for by the local authority for a short period while a parent with no other family support received medical treatment. That child – and parent – are then subjected to a level of state involvement for the rest of their childhood and early adulthood.

- A child and their family require support and intervention for a period – which could be for a wide range of issues such as substance use, protection or relationship matters – but intervention results in positive changes, and they continue with their lives without the need for any social work or corporate intervention. They are now subject to corporate parenting duties for the remainder of their childhood and young adulthood.

While families may not need any active intervention by the state, this adds up to a level of potential state interference in family life which SWS considers may be a breach of the UNCRC , as well as out Scottish childcare framework of GIRFEC and minimum intervention.

This raises for SWS a fundamental concern about a number of the provision within the Bill, which is advocating an interventionist approach to certain Scottish children; those with experience of the care system, and those who, while not having a formal experience of care, live in alternative family arrangements.

While noting this, SWS would underline that seeking to ensure that children have their needs met, including those which may arise after time in care, is a desire that is completely shared. It is the methods and vehicles by which Scottish Government is proposing to do so that is concerning. That this be achieved by extending corporate parenting duties is not a step SWS or our members can support. This particularly relates to the inclusion in the definition of those who have at no point experienced state care i.e. many of those who are subject to a Section 11 Kinship Care Order.

We reiterate our significant concern that the proposals extend the definition of 'looked after' to those who have no experience of state care, and by extension, of 'formerly looked after' to include those who have never been looked after. This tinkering with the definition in the view of our members is a recipe for confusion and conflict. It is an invitation for complaints and disappointment, contributing to a further sapping the public's confidence in public services. It also denies professional's agency, dictating who must be supported, rather than allowing skilled professionals to make judgements on the basis of assessment and evidence. Perhaps most distressingly, the idea that extending corporate parenting duties will make a difference to more young people is yet untethered from evidence. While SWS firmly believe in the value of corporate parenting and wish to see much greater embodiment of corporate parenting responsibilities across public sector partners, the existence of these duties has not, since 2014, always made a material difference at scale for care experienced people.

This is not to detract from the intent of the proposals, just the means of achieving this. We strongly urge policy makers to consider the core values upon which our

state childcare system is built. If, as a country, Scotland wishes to consider adopting a more interventionist approach, then there is a need for a period of careful review, consideration and public discussion, before potentially retracting those fundamental legislative and practice principles.

Our members raised other concerns. These include:

- The financial implications of managing the complexities which would result from a confusing definition of corporate parenting
- The importance of consultation with the wide range of families impacted.
- The workforce implications not only for social work but also other corporate parents, and what this would mean in relation to provision and resources, and for other groups whom they may serve and who could by default receive a lesser level of service.

In summary members consider the proposals well-intentioned but not well thought through.

### **Question 3:**

Social work is a profession rooted in advocacy, and much of the work of social work at individual and strategic level is related to ensuring the voice of those we work with is heard and reflected in policy and practice.

We are therefore supportive of advocacy services, and fully agree that it is important children who have experience of care, or have experienced trauma in their childhood, receive the support they need in adulthood, including, where relevant, advocacy. But while supportive of the principles and intent, SWS is concerned about a number of issues linked to this part of the Bill:

- The label of care experience continues to not always be construed positively, despite some progress in public understanding and across public services. To access advocacy individuals will be pushed to declare their care experience, and to frame their support needs in the context of their care experience.
- The complexity of determining if advocacy is needed due to a young person's care experience, or other factors.
- The interface with existing adult advocacy provision, for example Mental Health or Adults with Incapacity and Learning Disability. Given the over-representation of young people with care experience in some of these groups, we wonder if focusing on improving that provision may result in better advocacy provision for all our young people
- It's unclear what the basic financial costs of providing lifelong advocacy is, and it is questionable whether the advocacy staff are there to be employed. Also, if there is a big uptake of advocacy above the current baseline, what will be the related impact on wider areas of social work and social care provision? SWS suggest that a pilot scheme would help us better understand the costs and other implications, and therefore design a better national scheme in time

- It is questionable whether this proposal would actually meet the intent behind the proposals.
- Why consideration of upskilling existing provision has not been scoped or explored.
- Lack of clarity around who might be eligible for advocacy, especially given the definition of care experience is to be developed within secondary legislation
- The links between the possible need and wider factors e.g. the housing and mental health crisis have not been fully explored.

SWS suggest that there is a need for in-depth consideration of what the proposals are trying to achieve and how best to achieve this. The current provisions within the Bill are likely to lead to additional complexities and confusion and will not meet the policy intent. SWS is also concerned that much of the provision will be developed in secondary legislation. If the work suggested by our members is undertaken before any legislation is progressed, then this will ensure provisions which are achievable and ultimately meet the need and will also enable proper co-development and parliamentary scrutiny.

We advocate exploration of other means of meeting the identified need, including the upskilling of existing advocacy provision and awareness within universal and targeted adult services. Pilots and testing of models would also give us a much more granular understanding of costs, risks, issues and interdependencies.

We appreciate that this is a harder task than what is proposed in the Bill but firmly believe that if undertaken it will result in more effective and achievable plans, which are non-stigmatising, and able to meet the needs identified in the Independent Care Review.

#### **Question 4:**

SWS responded to the consultation on definition of care experience In brief, while supportive of a clearer definition members felt it was not necessary to legislate– the simplest approach is to confirm that care experience is what it says - experience of local authority care. There are however, no strong objections to the definition being in legislation, assuming it is simple, clear, and does not blur boundaries. Many of our members see benefits in having a definition clearly set out.

However, as noted elsewhere in our response, it is the view of SWS that Scottish Government should not seek to extend the definition to include groups where children were not 'looked after' e.g. some of those subject to section 11 order.

Becoming 'looked after, whether on a voluntary or compulsory basis, is a significant intervention in family life, and Scotland has a child care system based on the 'minimum intervention' principle, which is well evidenced. SWS members consider that we should not extend the definition of care experience into areas where individuals do not have experience of state care simply to maximise access to certain benefits in adulthood. GIFREC, our foundational and rights based legislative framework, states that children and their families should receive the 'right support at

right time' based on the minimal intervention principle. This aligns with UNCRC and human rights and getting it right for everyone (GIRFE) should be similar.

SWS is also particularly concerned that the definition will be set out in secondary legislation. Other parts of the Bill suggest Scottish Government favour the sort of broad and all-encompassing definition we advise against, including children who have not been 'looked after'. Progressing a definition in secondary legislation, or even guidance, would deny Parliament the opportunity for proper scrutiny, and leave the definition too open to easy change e.g. in response to pressure from specific groups or interests. Any legal definition, which will be critical to determining eligibility, needs to be set out in primary legislation.

Furthermore, if this definition is set out in secondary legislation or guidance, we are concerned about the risk of it being muddled, and in conflict with other terms the Scottish Government is using to delineate eligibility, such as Care Leaver. Even without a definition of care experience in law, Scottish Government is currently advancing two separate definitions of 'Care Leaver': one in this Bill, and another -the current formulation - for the about to be implemented Care Leaver Payment. This is the sort of policy incoherence which makes delivery of services and support on the ground difficult, and which evidences the criticality of the call by the Promise for legislative review.

#### **Question 5:**

SWS along with others were involved in the Competition and Marketing Authority (CMA) exploration into profit in childcare and are supportive of the recommendations for further exploration and work which the final report outlined for Scotland.

We are also supportive of the principle of ending profit in care, and aware of the strong views expressed by young people as part of the independent Care Review. We are equally cognisant of the complexities that any move to end profit in residential care is likely to have on provision and ability to meet the increasingly complex needs of the children being cared for.

These complexities include the real potential for loss of capacity at a time when provision for children is stretched – private provision is now a significant aspect of our care environment within Scotland. Recent experiences within secure care illustrate well the implications of capacity challenges and the resultant risks to both local authorities and the children requiring placement.

Members have expressed worries that the legislation is a 'plan to have a plan' and that it would be more effective to undertake this planning and be able to fully consider and mitigate for any unintended consequences before framing anything into legislation. Again, learning from the Children's (Care and Justice) (Scotland) Act is relevant.

Additional comments include:

- A query about why a different approach is being taken to fostering and residential care. While fostering agencies must already be 'not for profit' the CMA report clearly highlighted issues with whether this was in fact the reality. While requiring that



fostering agencies register as charities may assist with tracking spend and ensuring that it is reinvested, it is not ideal. However, a similar approach to residential care, if appropriate as a stepping stone to broader change, may be worth considering and would additionally provide sector consistency.

- Profit is only one aspect of the market dysfunctionality around care. Others include matching, notice periods, the level of change and need, and pricing issues. A more coordinated approach to residential care and its role as part of the whole care sector would be valued.

- The risk of a north/south divide, with some agencies deciding to only take children from the rest of the UK.

- That the proposals will not change anything on the ground, in respect of the availability and quality of care for children.

While supportive of the aims, SWS's view is that more time is required to properly consider the environment and to undertake a risk assessment around the potential implications of the proposals, to ensure that there is an evidenced and evaluated approach. If Ministerial powers are needed to implement whatever plan is agreed among stakeholders, Scottish Government can return to parliament with that request. But it may be possible, using existing legislation and structures (such as Scotland Excel) to achieve the same aims. In the interests of subsidiarity, local democracy and professional leadership, all options should be evaluated before we default to giving Minister's unspecified powers to fix a poorly defined problem.

SWS also note recent challenges being faced in Wales, as part of their attempts to progress the no-profit-in-care agenda. This adds weight to the need to take time for proper consideration of the sequenced steps required to reach the desired goal, learning from further research and recent, relevant experiences.

#### **Question 6:**

SWS members agree in principle that Independent Fostering Agencies should be registered as Charities, though with reference to the CMA report, they are not convinced that this will change the costs of placements - indeed some believe it will lead to increases - nor to the level of surpluses / retained earnings which organisations accrue. and related costs of placements, across sector of any great extent

Concerns were expressed about the importance of a phased introduction to ensure those who are not currently charities are given adequate time to register. This would ensure that there is no disruption to the children who are currently in placement.

#### **Question 7:**

SWS members expressed mixed views on a national register with some – those closest to fostering – strongly against the idea and seeing limited benefit. Others could see possible benefits.

Members universally expressed the need for more detail on aspects such as

management, oversight, who would hold the register, access to the register, the level of detail held and the added benefits or otherwise which is anticipated. Each of these aspects, and in particular what functionality the register will have, will make a big difference to overall complexity, sensitivity, impact and costs. The options should therefore all be worked through before any final decisions are made, and then the plan agreed by stakeholders brought to Parliament for proper scrutiny (including a detailed financial memorandum).

Potential benefits expressed were around safeguarding, and the register being somewhere for the 'softer' information about carers who have either been de-registered, or who have been assessed by one agency and not taken forward for some reason. However, queries were raised about whether existing processes such as the Disclosure Scotland role, could be enhanced to cover this function.

Concerns, many based on early experiences of other areas such as the adoption register noted are:

- Data protection concerns, and whether carers – and their family members – would need to give permission for their details to be shared, or if this would be required to obtain approval. If the former the register may not achieve this matching goal, if the latter, it could put individuals off proceeding with assessment to become carers.
- Will there be registration fees for utilising the register?
- If the purpose is to provide a picture of fostering across Scotland, then there are other ways of doing this e.g. Care inspectorate collect copious levels of detail about all fostering agencies, little of which at the moment is utilised, or reported on.
- There are worries about the potentially disproportionate time and effort required to keep a register up to date given the daily changes – and related staff and financial costs.
- The potential of a national register to facilitate better matching goes against local drives to keep children local, close to their family and community. This is a commitment in the Promise.
- While the improved safeguarding benefits are acknowledged, members wonder if a 'de-registered carer/not progressed' register may be more effective.
- Whether the register would contain only current carers, or also those being assessed, or deregistered. There are various benefits and disbenefits to either approach, and the costs of any register would differ considerably depending on which option is chosen. This illustrates the importance of Scottish Government working out the details first, then returning to parliament with thought through proposals.
- Greater clarity about what information would be required and the parameters around that information is lacking. Much concern was expressed around the inclusion of information about carer's family members. Members felt this was overly intrusive. On a related area, the position of children adopted or in permanent carer with a carer being included raises other wider privacy issues.

Members raised concerns about an underlying 'sense' that a national register may be a means to monitor what agencies are doing, and who is approved, and that this could impact negatively on recruitment and retention. Real fears were expressed that some carers who already have gone through an intensive assessment will feel overly scrutinised. There have also been suggestions that the register will play a role in 'matching' children with carers; while this might be welcome from the perspective of a social work team who are struggling to identify suitable carer for a child, consideration is needed of the implications from a macro perspective, and what such a development would mean in terms of keeping children close to family (including siblings),

Members made a plea that those involved in fostering be part of considerations to ensure that any register adds benefit to the current challenging landscape and that it does not become a big issue with minimum benefit, and feed into unhelpful discussions about the status of foster carers e.g. regulated vs. unregulated, employment status, etc. rather than enhancing messages about their value.

Related, the need for more work on the purpose of a register, whether the benefits outweigh any issues, and the best way of achieving the desired outcome be explored with the sector before being progressed in legislation.

#### **Question 8:**

Although SWS was not involved in the original Hearings for Children work, and were disappointed that other models of provision for children were not explored, we have worked closely with key partners since then, and continue to be significantly involved in the work to re-design the children's hearing system.

In developing our response to the Hearings for Children report, SWS undertook a range of consultation processes with members and wider partners. The biggest issue for social workers was the current culture of the hearing system, which is confrontational and not child centered. Members recounted regularly sending managers to hearings with social workers because of the aggression directed towards them, and how this contributed to social workers leaving children and families to work elsewhere. Core to this was what such a hearing would feel like to the children involved.

SWS is now represented on the Hearings Redesign Board - the strategic group overseeing the changes required - and on the Children's Hearing Planning Group, the 'doing group' taking forward the key practice aspects of the reforms, including changes to culture which SWS members feel has the potential to fundamentally change hearings and enable them to work in a child focused and respectful manner.

The proposals in the Bill focus on the legislative aspects required, but they cannot be distanced from the wider work of hearing redesign. Reflections on the proposed changes are taken from this wider contest.

While SWS is calling for a pause in some aspects of this Bill, it is recognised that legislative changes to facilitate better hearings require earlier attention, and SWS would support such a move.

We have grouped our response but are able to provide more details should this be helpful.

Proposed changes to the role of the Reporter in grounds process, and power to initiate a review of a CSO.

Members noted their support generally for removing unnecessary meetings, and some flexibility for the Reporter in determining this. The attempt to 'declutter' hearing processes, and avoid unnecessary panels is considered generally helpful, especially where young children are involved, and expanding the options is generally favoured. The scope of the proposed grounds options, however, were less favourably viewed with a sense that put together, they constitute a complex process which is too 'multi-layered'.

Specific comments:

- For younger children and those without capacity, immediate referral to the Sheriff to establish grounds removes unnecessary hearings and should speed up the process.
- The process of meeting with families was viewed positively. However, members considered that the parameters of the meeting, who should be present and how it is recorded were critical. They were not supportive of a Reporter/family meeting without some additional checks.
- The option of a single panel meeting around grounds was considered cumbersome and potentially contributing to delays

Members also noted that there is a need, throughout the proposals, to consider if and how any legal or advocacy representation is appropriate and how this might change meetings. If the new options for consideration of grounds are restricted to steps one and two – grounds going straight to the Sheriff, or a conversation with the Reporter which either leads to acceptance of the grounds or not (or if there is dubiety it then goes direct to the Sheriff for proof) – this complexity would be removed. A two-option change of this nature would be supported by Members, removing the single person panel option.

Members were not in favour of having the single panel option in relation to grounds, noting that this would risk delaying the grounds process further, and could result in confusion around role and remit. No added value was perceived from these options where there has already been discussion with the Reporter. The skill and capacity of a single person panel as also queried.

The role of any relevant person also requires consideration.

On the proposed power for the Reporter to initiate a review hearing, members questioned what this would add beyond current provision for relevant individuals to request a review hearing, and how the power might be used, with some members expressing specific concerns around potential for it to be misused.

Many members noted that hearing ran better and were more child centered prior to the 2011 Act, when Reporters routinely attended hearings ensuring that both process and legislation were followed, and keeping order in the hearing. This also ensured that poor behaviour and inappropriate targeting of individuals was minimised, and the focus remained on the child. A return to this approach would be welcomed.

Single person panels/extended role of the chair – grounds, extending an ICSO, pre-panel functions.

There is general anxiety across SWS members about the proposed single person panels, with members expressing concerns about the ask of panel chairs who would undertake these roles, whether in relation to grounds or wider aspects. While panel chairs are likely to be remunerated, the role is not one which requires specific qualifications or is subject to external scrutiny in the manner of wider professional groups, or other similar inquisitorial processes. Three person panels provide a level of check and balance which would not be available in a single person panel, which also exposes that individual significantly.

SWS members did, however, distinguish between single person panels and process matters i.e. there is support for ‘procedural’ decisions being taken by a panel chair. Examples provided included how a panel might be managed in relation to attendance, requiring a child to attend, or decision relating to relevant persons.

### **Remuneration of panel members/specialist panel members**

SWS expressed in our response to the consultation in 2024, our key consideration that those involved in making critical decisions around children who are within the hearing system are suitably experienced, qualified, and supported. This includes imbibing the core principles of respect and consideration essential to an effective tribunal forum. If remuneration assists in achieving this then SWS would be supportive of the move, but note that paying an individual does not equate to improvement in the quality of understanding and chairing and in itself will no address the culture which currently permeates the hearing system.

Members can see potential benefits in remuneration attracting those with the right experience and skills but note that given there is no detail around skills, structure, expectations or oversight, therefore whether remuneration might facilitate this is difficult to determine.

With the focus on culture, SWS is also concerned about the introduction of specialist panel members, with an almost universal questioning about what they would add which is not already available to hearings, who can call for specialist report from for example a psychologist and who already have included in the material provided the input of a range of specialist including social workers, educationalist and health professionals. . Additionally, the potential for conflict between specialist panel members and a chair or other panel members has been noted, and the view is that it introduces a status and power dynamic unlikely to be helpful to the fundamental desire to create a more collegiate and respectful culture within the panel system.

Members also note that a criteria for involvement of specialist panel members would

be necessary and there is a lack of detail in the Bill about what this might include, who would determine if a specialist panel member was required, how this would be measured and what input if any others would have to the process – including the child, family, relevant persons and others attending a hearing

Removal of requirement for a child to attend a hearing

Members of SWS did not consider this to be a controversial proposal and given that the highest proportion of hearings involve younger children, this approach would be helpful for them.

Members note that there are many methods of gaining a child's views without them actually attending a meeting and that meetings are not an easy context for a child to express views.

However, members equally consider that there are some situations where children should be required to attend and that the regulations should clearly outline those situations e.g. where secure is being considered, or a child has committed an offence.

### **Relevant person proposals**

The ability to remove the right of a relevant person to attend a hearing is positive and members provided examples where an individual has been disruptive in the past, and removing the right to attend would enable a more constructive discussion, or where an individual was no longer relevant to a child's care. They also note that a right to be involved rather than attend would enable someone relevant who is unable to take part constructively or whose presence would cause trauma to another individual to provide views in writing to the panel. There may be potential to explore amending/expanding the 'relevant person' definition to involvement rather than attendance with the Reporter – or should some of the proposals progress, the chair - determining if an individual is invited to attend or not.

Members note that the principal reporter would 'un deem' an individual and noted that the processes around this are important - who refers concerns to the Reporter and who does the assessment for this e.g. social worker, safeguarder, advocate or another?

Anyone whose relevant status is removed should also have the right to appeal, with the potential for this to cause delay.

SWS members also make a plea for a simpler relevant person process e.g. that the person caring for a child – a kinship carer or foster care – is automatically deemed relevant. Carers advise that having to apply to be a relevant person when they have care of a child is devaluing.

### **Changes to terminology**

Members are generally of the view that the changes to terminology are acceptable, proportionate and in keeping with social work values. They note however that it is important that the addition of 'support' does not lead to the inclusion of children in the

panel system where this is not required. Hearings should only be for those who require compulsory measures – a small proportion of the population needing care and protection. Definitions of ‘advice, guidance treatment and support’ is therefore critical.

In common with others, some SWS members still find the term ‘treatment’ to be out of date, but others acknowledge the compulsory nature of the hearing system and that treatment is at times necessary – and may be more so as the age of referral is extended with implementation of the Children’s (Care and Justice) (Scotland) Act 2024. Options for mandating beyond the parameters of the implementing authority to wider corporate parents, for example health and CAMHS, to provide treatment was viewed by some as worthy of exploration.

### **Extension of the time period for an ICSO**

SWS members are generally supportive of the proposed changes to timescales for Interim Compulsory Supervision Orders but note that this does feel as if we are adjusting our children’s system to cope with issues in the justice system. A more child-centered approach would be to have timescales applied to grounds hearings in the court.

#### **General:**

Members have reiterated their views that children’s hearings are dealing with complexities beyond anything which was envisaged when the system was first developed. They note that the hearing system is traumatic for children, families and social workers, and that we ask a huge amount of volunteer panel members and panel chairs, who are often unable to manage the complexities of trauma, need and challenges they face, including complex legislation. Many SWS members are of the view that a family court-based system would be both easier and more able to be understood by families.

While the fundamental principles of the hearing system – seeing children as first and foremost children, who express trauma in different ways – have stood the test of time doubt is expressed by SWS members on whether our current hearing system still holds to those principles.

Many of the procedural aspects of the Bill’s proposals are considered acceptable, but members highlight that the changes do not take account of some of the basic issues with the current system – the many individuals who now attend a hearing, and the consequent loss of the child and their voice in the process, and the adversarial culture of hearings. These features have led to the loss of the application of the foundational principles referenced above. At the core this results in disrespect for those involved, and a culture of distrust which spills into hearings and the treatment of those involved to the detriment of the child and their interest.

Members retain the previously expressed strong view that without a change in this aspect of hearings, any reform will not achieve the desired improvement and welcome the attention as part of the work of the Children’s Hearing Reform Group to this area.

The wider challenge for SWS, and indicative of the level of change required, is a struggle by some members to have confidence that the changes will result in the necessary improvement and difference in children's lives. Enhancing the role of the Reporter rather than the panel chair feels to members likely to be most impactful in this area.

**Question 9:**

Successful delivery of the Promise will require much more than children's services can do on their own. The issues which lead to the state's involvement in a family are now overwhelmingly to do with adults (directly or indirectly), and therefore adult services are absolutely critical to ensuring children enjoy the scaffolding of support which keeps them safe and well. Moreover, as our expectations of 'corporate parents' evolves, with commitments to support people with care experience throughout their lifetimes, this necessarily means that adults services are central.

If it is Scottish Ministers' aims to ensure the contribution of adult services towards the Promise is enhanced, and to improve the coordination of child and adult services for children and families, SWS is strongly in agreement. But if these are the aims, we are highly doubtful of the efficacy of the proposed vehicle for achieving it. Reform of Children's Services Planning is at best only going to make a marginal difference to the siloes which exist between child and adult sectors, or to the shift of NHS budgets towards children and families, as part of a broader investment in prevention.

Our members, who live and experience the reality of Children's Services Planning, have almost universally struggled to understand what difference the inclusion of IJB's as core duty holders will make. They note that an IJB does not have responsibility for delivering services and are simply a mechanism for shared planning and organization. The IJB is made up of health board and local authority, and both of those already hold the core statutory planning duties. Children's Services Plans also already go to IJBs for review and approval. Thus, what would the addition of the IJB, a composite of the existing two core planning members, actually make in practice?

Additionally, the logic is considered to be flawed – seeking to provide equity across the three bodies assumes they are equal, which they are not - IJBs exist to facilitate the integration of the health board and the local authority, not as a partner to those bodies. There is indeed an issue with the extent to which IJBs which do not encompass children's services give attention to the needs of children and families, but we would suggest that the solutions to that lie in the regulations governing IJBs, or in guidance issued to IJBs and NHS Boards.

Members are therefore unclear what difference or added value would be achieved by IJB's holding the same statutory duties as the bodies which make up the IJB.

**Question 10:**

SWS and our members universally reiterate our commitment to the Promise and working together to ensure that this is achieved and effectively implemented.

SWS has outlined in our introduction our overarching view and the reasons for this.



As an organisation SWS is calling for the Bill to be streamlined, removing parts where the detail of plans is absent, or where provisions are unlikely to deliver the policy intent, or which might create negative unintended consequences. The remaining Bill, including aspects relating to hearing redesign, may then appropriately be progressed. We have come to this conclusion for a number of reasons

- The framework nature of many of the provisions means that much critical detail is left to secondary legislation or guidance. This makes it difficult for our members to evaluate and give a view on proposals. Detail is required in order to know if those proposals will make the required difference to children's lives.
- Much of the Bill is legislating for consideration of what requires to be in legislation. That feels largely opportunistic, filling up space in the Bill and taking up parliamentary time because there is a chance to do so. It does not feel part of a worked through strategy, in which the award of new Ministerial powers has been identified as central to delivery.
- In the development of this Bill, the lack of engagement with the sector in developing what will work in achieving the Promise, and identifying unintended consequences. There is learning in relation to this from the Children's (Care and Justice) (Scotland) Act 2024. Given the cross sector and cross-party support for the Promise, there is commitment to this approach.
- The Bill does not change the system's capacity e.g. people to meet the Promise, and risks adding to the confusing legislative landscape.
- Aspects of the proposals have significant implications and appear to contradict the foundational basis of our Scottish care system, and particularly the minimum intervention principle. Careful consideration of this aspect of legislation is important if the proposals are to continue, and this requires time and full engagement, given the fundamental nature of such a change to our core approach in Scotland – and the wider legal ramifications.
- The financial memorandum is insufficient to enable proper scrutiny of these plans, and to determine whether they represent value for money. In some cases this is because there is no substantive policy yet to be costed, and in others it is because out of date or inappropriate data has been used to construct costings. We will take this opportunity to note that, while Scottish Government officials ordinarily make an effort to work with SWS and COSLA to construct financial memoranda, in the preparation of this Bill we received no requests for information or invitation to input. The weakness of the current financial memorandum reflects this.

While very supportive of ensuring that adults who have been in care receive the support they need, members are particularly concerned about the tensions this legislation, like others, creates between underlying principles and mandated actions. There are related concerns about the potential contradictions and rights issues which arise from blurring the boundaries between state care and non-state care in order to maximise support in adulthood. SWS would underline the seriousness of extending corporate parenting duties to those not in the care system, and the rights issues which may arise.

SWS is also concerned about the nature of the Financial Memorandum and will respond to the Call for Views related to this. Within this response, the importance of proper costing of the proposals and related funding is underlined, as is the need for investment rather than re-allocation of funds. This is not reflected in the Financial Memorandum as it is currently.

In summary, the transformation of our care system in Scotland has universal commitment. SWS represents those who hold statutory responsibility for those who need support and care in order to provide both the protection and the conditions necessary to support their wellbeing. This is a sobering task as it involves intervention in the lives and rights of children and families, and one which can only be safely undertaken within a legislative and policy context. Careful and considered attention is therefore required to ensure that legislative change supports the aims of the Promise and is able to be properly implemented, thus improving the lives of children and their families.

SWS is of the view, supported by our membership, that more underlying work is required to frame a Bill which achieves this goal, and are committed to playing our part in that process.