

Equalities, Human Rights and Civil Justice Committee

7th Meeting, 2021 (Session 6), Tuesday, 2 November 2021

Note by the clerk

Proposed Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill: Statement of Reasons

Introduction

1. A draft proposal for a Member's Bill – the [proposed Disabled Children and Young People \(Transitions to Adulthood\) \(Scotland\) Bill](#) – was lodged by Pam Duncan-Glancy MSP on 20 September 2021.
2. Before introducing a Member's Bill, the MSP must first lodge a draft proposal which must be accompanied by a consultation document or by a statement of reasons setting out why the Member does not consider a consultation to be necessary.
3. Pam Duncan-Glancy MSP has provided a [statement of reasons](#) to accompany her draft proposal.

Consideration

4. According to Standing Orders 9.14.6 where a draft proposal accompanied by a statement of reasons is referred, the Committee must decide whether it is satisfied with the reasons given by the member for not consulting on the draft proposal.
5. If the Committee is content with the statement, the Member will be able to proceed to the final proposal stage. If the Committee is not content, the proposal will fall unless the Member decides to consult.

6. The statement of reasons document is contained for Members' reference in Annexe A. Correspondence in support of the statement of reasons is included in Annexes B to D.
7. Pam Duncan-Glancy MSP will also appear before the Committee to answer any questions.
8. **The Committee is invited to consider whether:**
 - a) **It is satisfied by the statement of reasons. or**
 - b) **It is not so satisfied.**

Committee Clerks
28 October 2021

Annexes

The following documents are included for this meeting—

- Annexe A: Statement of reasons
- Annexe B: Correspondence from the Cross-Party Group on Disability (15 October 2021)
- Annexe C: Correspondence from Sense Scotland (18 October 2021)
- Annexe D: Correspondence from People First Scotland (22 October 2021)

Annexe A

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

Statement of reasons by Pam Duncan-Glancy MSP on why further consultation is unnecessary

Draft proposal

My draft proposal was lodged on 20 September 2021. It is a draft proposal for a Bill:

- To require the Scottish Ministers to introduce, and to implement, a statutory National Transitions Strategy to improve outcomes for disabled children and young people in the transition to adulthood;
- To require the Scottish Ministers to assign to a member of the Scottish Government, or to a junior Scottish Minister, special responsibility in relation to the exercise of their functions under the legislation; and
- To require local authorities to introduce a transitions plan for each disabled child and young person to ensure that each disabled child and young person receives appropriate care and support before, and during, the transition to adulthood.

Procedure

Under Rule 9.14.3 of the Parliament's Standing Orders, a draft proposal should be lodged with either:

- a consultation document; or
- a written statement of reasons why, in the member's opinion, a case for the proposed Bill has already been established by reference to specified published material and that consultation on the draft proposal is therefore unnecessary.

Background to the current proposal

In Session 5 Johann Lamont MSP consulted on the following draft proposal for a Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill:

"Proposal for a Bill to require the Scottish Ministers to introduce, and to implement, a National Transitions Strategy to improve outcomes for children and young people with a disability in the transition to adulthood, and to require local authorities to introduce a transitions plan to ensure each child and young

person with a disability receives appropriate care and support before, and during, the transition to adulthood; and for connected purposes”.

Due to an oversight, Johann Lamont MSP’s draft and final proposals did not mention the provisions in the draft Bill requiring the Scottish Ministers to assign to a member of the Scottish Government, or to a junior Scottish Minister, special responsibility in relation to the exercise of their functions under the legislation. These provisions were, however, consulted upon by Johann Lamont MSP in the public consultation on the draft Bill, and received strong support. The provisions were also included in the Bill as introduced, and in all its supporting documents, as well as being addressed in Stage 1 evidence by Johann Lamont MSP. These specific provisions also received strong support in the Stage 1 evidence received by the Education and Skills Committee in Session 5 of the Scottish Parliament.

The current proposal addresses this oversight, and is very similar to the draft proposal lodged by Johann Lamont MSP on 9 October 2019. The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill which will be introduced will also largely be the same. The only changes are relatively minor and will strengthen the consultation arrangements within the Bill by changing some of the wording in Section 4, Section 8, Section 13, Section 14 and Section 15. These changes have been made in response to commitments given by Johann Lamont MSP to the Delegated Powers and Law Reform Committee that the consultation arrangements within the Bill would be strengthened. A new paragraph has also been added to Section 12(2) to ensure that the review of the transitions plan keeps under review that the disabled child or young person is receiving the care and support necessary to meet their needs. These are the only differences between the Bill introduced by Johann Lamont MSP, and the Bill which will be introduced.

Consultation on the previous proposal and draft Bill

Johann Lamont MSP’s draft proposal was accompanied by a [consultation document](#). This document was published on the Parliament’s website, from where it remains accessible. Respondents were asked for their views on the key components of the proposed Bill:

Respondents were asked for their views on the key components of the proposed Bill:

- the need for a National Transitions Strategy
- for a Scottish Government Minister to be appointed with specific responsibility for transitions to adulthood
- and for statutory transitions plans.

The consultation period initially ran from 9 October 2019 to 22 January 2020. The Member extended the deadline to 31 January 2020 in response to requests from a small group of respondents for extensions. The Member hosted a launch event for her proposed Bill on 9 October 2019 in the Scottish Parliament. The Member also hosted a consultation event in Glasgow on 11 November 2019. Other organisations

arranged consultation events or meetings to discuss the Member's proposal, including those hosted by the Scottish Commission for People with Learning Disabilities, and the Edinburgh Voluntary Organisations Council. Meetings were also held with a group of East Renfrewshire Carers, and with a group of young people with learning disabilities and other support needs. Updates about the consultation on the Member's proposed Bill were provided by the Member, and/or by Camphill Scotland or Inclusion Scotland at meetings of the Scottish Parliament's Cross Party-Groups on Carers, on Children and Young People, on Disability and on Learning Disability. A wide range of organisations, individuals and groups were sent details of the consultation. The consultation was also widely publicised through the media, including social media.

In total, 91 consultation responses were received by the Member. The respondents can be categorised as follows:

- 11 responses (12.0%) were received from public sector organisations [e.g. Scottish Government body or agency, local authority, Health Board or Health Board body or organisation, or Non-Departmental Public Body];
- 12 responses (13.1%) were submitted by representative organisations [e.g. business association, trade union, third sector organisation, or other body with a role representing its members or supporters' views collectively];
- 39 responses (42.8%) were received from third sector organisations [e.g. charitable, campaigning, social enterprise, voluntary, not for profit organisation];
- 4 responses (4.3%) were received from 'others' [e.g. clubs, local groups, groups of individuals, etc.]; and
- 25 responses (27.4%) were submitted by individuals [8 (9.6%) were received from professionals with experience in a relevant area; 3 (3.2%) from children or young persons with a disability; 13 (14.2%) from parents or other carers of a child or young person with a disability and 1 (1.0%) from members of the public].

An analysis and summary of the responses was undertaken by Dundee University. A copy of the [consultation summary](#) was published on the Parliament's website, from where it remains accessible.

Respondents were asked for their views on the key components of the proposed Bill – the need for statutory transitions plans, for a National Transitions Strategy and for a Scottish Government Minister to be appointed with specific responsibility for transitions – rather than on whether or not they supported the Bill. Most respondents were broadly supportive of the Bill, reflected in the majority support for all of the Bill's key provisions outlined in the consultation summary:

- 66 (72.5%) respondents supported or seemed to support the proposal that children and young people with a disability should have a statutory right to a transitions plan, and a further 6 (6.5%) respondents seemed to conditionally

support the proposal, giving an overall level of support of 79% of all respondents.

- 26 (28.5%) respondents stated that a National Transitions Strategy would assist young people with a disability to achieve independent living, and 29 (31.8%) respondents answered that they think that a National Transitions Strategy would assist disabled young people to achieve independent living, subject to conditions, giving an overall level of support of 60% of all respondents.
- 54 (59.3%) of the respondents stated that they think it is necessary for there to be a Minister in the Scottish Government with a special responsibility for ensuring that children and young people with a disability receive appropriate levels of care and support in the transition to adulthood, while Six (6.5%) of the respondents answered yes but subject to conditions giving an overall level of support of 65% of all respondents.

A final proposal for a Bill was lodged on 18 June 2020. The proposal for Johann Lamont MSP's Member's Bill secured support from 53 MSPs. The [list of the Bill's supporters](#) was published on the Parliament's website, from where it remains accessible.

On 18 August 2020 the Parliamentary Bureau confirmed the Member had the right to introduce a Member's Bill. The Education and Skills Committee was designated as the lead committee for Stage 1 scrutiny of the Bill.

The Committee issued its call for evidence on 16 November 2020. The closing date for submitting evidence was 11 January 2021. The Committee received 77 submissions – 47 from organisations, and 30 from individuals. The [submissions were published on the Parliament's website](#). A group of disabled young people from Camphill School Aberdeen met in a focus group to discuss the proposed Bill, and made a [submission](#).

The vast majority of the Stage 1 submissions received by the committee supported the Bill, and its key provisions. Support for the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, and its key provisions, can be summarised as follows:

- A total of 70.1% (54 out of 77) of all respondents supported the Bill, and a further 11.6% (9 out of 77) gave qualified support to the Bill, making an overall total level of support for the Bill of 81.7%.
- A total of 66.2% (51 out of 77) of all respondents supported statutory transitions plans, and a further 10.3% (8 out of 77) gave qualified support to statutory transitions plans, making an overall total level of support of 76.5% for the proposed statutory transitions plans.
- A total of 77.9% (60 out of 77) of all respondents supported the proposed statutory National Transitions Strategy, and a further 11.6% (9 out of 77) gave

qualified support to the proposed National Transitions Strategy, making an overall total level of support of 89.5%.

- A total of 67.5% (52 out of 77) of all respondents supported the proposed appointment of a Minister for Transitions, and a further 14.2% (11 out of 77) gave qualified support to the proposed appointment of a Minister for Transitions, making an overall total level of support of 81.7%.

Johann Lamont MSP and representatives from Camphill Scotland and from Inclusion Scotland gave oral evidence to the Education and Skills Committee on 24 February 2021. The [Official Report of the evidence session](#) on 24 February 2021 can be viewed online.

The Bill received a positive response from the Education and Skills Committee, but the Committee subsequently confirmed it would be unable to complete its Stage 1 scrutiny of the Bill due to the lack of time left in the parliamentary session. The committee's support for the Bill was highlighted in a statement to the Scottish Parliament on 9 March 2021 by Clare Adamson MSP, the Convenor of the Committee:

“It is clear from the response to our call for views that the proposals deserve further scrutiny. I know that we cannot hold a future Government and committee to that in session 6, but we trust that the committee's views will be heard. I thank Johann Lamont again for raising this really important issue and I hope that, in the next session, the Parliament finds a way to improve outcomes for disabled young people in the transition to adulthood”.

Statement of Reasons

In relation to my draft proposal for this Bill, I do not consider that a further consultation is required for the following reasons.

The public consultation undertaken by Johann Lamont MSP on the proposed Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill was undertaken recently, and its key findings remain relevant as the current proposal is almost the same as the one lodged by Johann Lamont MSP, and upon which she consulted extensively.

The Bill is also almost the same, with only a few limited, relatively minor changes made. My proposal is directly related to the provisions on which feedback was received through the consultation from organisations, and from disabled children and young people and their families. The consultation was wide-ranging, covering various issues and considerations including the practical, operational and financial considerations associated with the proposals, and received 91 responses from various bodies and individuals with an interest in improving transitions to adulthood for disabled children and young people. An in-depth analysis of the public consultation was undertaken by Dundee University which confirmed high levels of support for the draft Bill and its key provisions.

In addition, the Education and Skills Committee also took Stage 1 evidence on the proposal, and received 77 submissions, the vast majority of which were in favour of the Bill and its key provisions. A final proposal for a Bill was lodged just over a year ago in June 2020. Given that very little time has elapsed since the public consultation, and since the Education and Skills Committee's Stage 1 call for evidence, closed, and that the Bill was introduced just over a year ago, a further consultation at this time is likely to simply duplicate the feedback received through the Member's public consultation and the committee's Stage 1 call for evidence, and elicit very similar responses from the same respondents.

Conclusion

I believe that there have been significant opportunities for key stakeholders, including disabled children and young people and their families, to express their views on these proposals. In this respect, Johann Lamont MSP's consultation took place as recently as October 2019 – January 2020 on the same proposal.

Furthermore, the Education and Skills Committee took Stage 1 evidence as recently as between November 2020 and January 2021. Significantly, the submissions received in response to both the Member's public consultation, and the committee's Stage 1 call for evidence, confirmed high levels of support for the draft Bill and its key provisions. A final proposal for a Bill was also lodged just over a year ago in June 2020.

I believe that there is ample published, current and pertinent information to help test, develop and refine my proposal, including the [Policy Memorandum and other documents drafted in support of the Bill](#), which were published on the Parliament's website, and can be accessed online.

On the basis of all the information detailed in this statement, I do not consider that further consultation needs to be conducted on my proposal for a Bill. Further consultation on an almost identical proposal would duplicate effort, incur unnecessary costs and could create the impression of 'over consultation'. I, therefore, request that the Committee considers this Statement of Reasons and indicates whether or not it is satisfied that the grounds I have set out above justify the absence of a further public consultation on my draft proposal.

Pam Duncan-Glancy MSP
September 2021

Annexe B

Correspondence from the Cross-Party Group on Disability (15 October 2021)

Dear Member of the Equalities, Human Rights and Civil Justice Committee,

I write as Convener of Cross-Party Group on Disability. The group has discussed the proposal and fully supports Pam Duncan-Glancy MSP's Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill and that is why I am sending on this email of support.

I understand that your Committee will be considering Pam Duncan-Glancy MSP's Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. This Bill was introduced in Session 5 by Johann Lamont MSP, but fell because insufficient time was available to complete all of the Bill's stages before the elections this year.

The re-introduced Transitions Bill would give a, much needed, right to a statutory Transitions Plan to every disabled child or young person. Support with transitions would then remain in place until no longer needed, or the young person's 26th birthday. The Bill would also require the Scottish Government to introduce a statutory national transitions strategy to improve outcomes for disabled children and young people in their transition to adulthood, and require the Scottish Government to appoint a Minister with special responsibility for transitions.

My understanding is that the Equalities, Human Rights and Civil Justice Committee is due to meet Pam Duncan-Glancy MSP on 2 November 2021 to discuss her Statement of Reasons which outlines why a further public consultation on her proposed Member's Bill is unnecessary. I am writing to you as a member of the Committee to request that you agree to Pam Duncan-Glancy MSP's Statement of Reasons.

Johann Lamont previously held a public consultation on the same Bill proposal which received 91 responses, and the Education and Skills Committee then received Stage 1 written evidence from 77 organisations and individuals (including the National Carers' organisations' evidence based on a survey of over 300 people). Further public consultation is only likely to duplicate the findings of the previous consultation and Stage 1 evidence which found overwhelming support for the Bill.

Young disabled people, their parents and carers have been consulted with over and over again throughout the last 20 years. What they are looking for from this Parliament isn't yet another consultation but action. Another consultation will mean disabled children and young people facing further delays in accessing the opportunities that are vital if they are to fulfil their potential, and to make the most of their lives. The pandemic has underlined dramatically that the need for action to improve outcomes for disabled children and young people is now, and not later.

EHRCJ/S6/21/7/5

Please support Pam Duncan-Glancy MSP's Statement of Reasons, and ensure that disabled children and young people get the support they so desperately need.

Kind regards,

Jeremy

Jeremy Balfour MSP
Convener of the CPG on Disability

Annexe C

Correspondence from Sense Scotland (18 October 2021)

Dear Member of the Equalities, Human Rights and Civil Justice Committee

I understand that your Committee will be considering Pam Duncan-Glancy MSP's Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. This Bill was introduced in Session 5 by Johann Lamont MSP, but fell because insufficient time was available to complete all of the Bill's stages before the elections this year.

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Please support Pam Duncan-Glancy MSP's Statement of Reasons, and ensure that disabled children and young people get the support they so desperately need.

Your sincerely

Angela Bonomy
Executive Director, Sense Scotland

Annexe D

Correspondence from People First Scotland (22 October 2021)

Dear Equalities, Human Rights and Civil Justice Committee member

I hope that you and those around you are well.

People First Scotland is the Disabled Persons user-led Organisation of people with learning disabilities in Scotland. We are a collective self-advocacy organisation.

Our charity is proud to be part of the worldwide People First movement.

Being a user-led organisation means that People First Scotland both owned and run by us, the members. All the members and Directors are people with learning disabilities.

We decide about running our organisation, making the funding applications, employing staff and managing the enormous number of requests for our time that partners and funders put to us for consideration.

So, we control all the important decisions for the work of People First, and we do it very well because it matters to us.

We have advocacy groups in different local areas involving around 1000 members across Scotland.

Our three main aims are:

1. To change the way people with learning disabilities see themselves
2. To change the way other people see and think about us
3. To Influence the laws and policies that affect our lives

Overall, we seek realisation of our rights as citizens and Human Beings.

We have been doing this work really well for over 30 years now. Although we work hard every day, offering our time and energy, day by day we continue to face extreme discrimination.

We experience significant poverty, little or no prospect of a career, an absolute lack of expectation or support for private and family life and a life expectancy shorter by decades than most people.

There have been so many consultations, reports and investigations.

People have written strategies, called things different names, conducted reviews and made public statements.

There is shock and outrage when BBC Panorama airs secret filming that shares hideous images of violence, assault, intimidation and torture within private hospitals.

But, still we are forced to live in these places. We continue hidden, shut away and forgotten.

Actions are limited and delayed, excuses are spoken and written and changes never given the urgency required.

The result is that we continue to live and die denied our Human Rights.

Because professionals, including government officials, social workers and politicians change job quite often there are regular requests that we repeat information, clarify details regarding reasonable adjustment and accessibility of information and explain circumstances.

The world and the attitudes of society do not include us effectively so new contacts need to learn each time. It would be helpful if change carried forward and ways of working which are good practice passed on promptly and effectively as established and expected. This happens rarely.

Repeated requests that we describe the life experience, the barriers and lack of opportunity that motivates uses up our resources.

It demands strength and resilience that many other humans would see as unreasonable. If only society and decision makers really listened, heard us and took the time to consider our lives then acted.

So, the message that I have been instructed to send to you in your role as members of the Equalities, Human Rights and Civil Justice Committee is the following, based on what is written above.

Do not hold another consultation on taking the Bill forward. There may be small, useful amendments but further delay for another full consultation on this is unwelcome.

We ask you to agree the Statement of Reasons, which can be accessed at: <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/disabled-transitions--statement-of-reasons.pdf> submitted by Pam Duncan-Glancy MSP.

Additionally, People First (Scotland) hopes timely progress on this Bill will be complimented by changes in mental health legislation. Remove us from the definition of mental disorder. Work with us to create legislation specific and respectful of our lives and rights.

Scotland has the chance to be a world leader for our human rights, to abolish substitute decision-making and support citizens with learning or intellectual disabilities in Scotland to have lives rather than to exist accessing limited or no opportunity.

Kind regards

Keith Lynch
Chairperson