

Call for evidence on the Children (Care, Care Experience and Services Planning) (Scotland) Bill 2025: The Fostering Network's response

August 2025

Part 1

Chapter 1

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

We support the intent of the aftercare provisions set out in the Bill. However, we believe young people who were looked after at any point before their sixteenth birthday should have the same right to aftercare as those looked after on or after their sixteenth birthday, so should not be required to apply for aftercare. We recommend amending section 1, subsection 2, to create a duty on local authorities to assess a young person's need for aftercare up to age 26, and to meet any needs identified. Furthermore, while we appreciate it may not be practicable to require local authorities to continually assess an individual's need for aftercare throughout their adult life, we propose that any aftercare services provided before the age of 26 should continue for as long as they are needed, and that care-experienced adults should have the right to apply for and receive aftercare beyond their 26th birthday. As The Promise recognises, "Aftercare must take a person-centred approach" with "no cliff edges" (p.92).¹

We are disappointed by the lack of provisions around Continuing Care in the Bill. In our response to the Scottish Government's consultation on 'moving on' from care into adulthood,² we recommended the introduction of a 'right to return' to Continuing Care for young people who wish to return to live with their foster families after they have moved out, in parallel to the experiences of many young people raised by their birth families.³ The Promise supports this, saying that "Young adults for whom Scotland has taken on parenting responsibility must have a right to return to care and have access to services and supportive people to nurture them" (p.92).¹ We are not proposing that foster carers should be required to keep a room available for young people who have moved on to independence, in case they wish to return to Continuing Care. Although this may be desirable, we acknowledge it would not be

practical. However, where a young person wishes to return to Continuing Care and their foster carer has space for them, we believe the duty on local authorities to provide Continuing Care should remain in place.

In our response to the ‘moving on’ consultation, we also recommended that the Scottish Government extend the upper age limit for Continuing Care so young people can stay with their foster families for as long as they need to. Again, this is supported by The Promise, which states that “Young people must be encouraged to ‘stay put’ in their setting of care for as long as they need to” (p.92).¹ Young people across the UK now leave home at an average age of 24,⁴ so the upper age threshold of 21 for Continuing Care puts care-experienced young people at a further disadvantage at a time when they are particularly vulnerable. Care-experienced adults are over twice as likely to experience homelessness, almost twice as likely to have poor health, and over 1.5 times more likely to have financial difficulties than their peers without care experience.⁵ Removing the greatest source of security and protection – their home – before they are ready can therefore be extremely dangerous.

We would urge the Scottish Government to extend the duty on local authorities to facilitate and support Continuing Care arrangements for young people until their 26th birthday – including young people who are seeking to return to a foster family – and to fully fund this change. This must apply in all cases where the foster family agrees, the accommodation remains available, and a Welfare Assessment supports this decision.

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

We welcome these provisions, but we would support an even more ambitious approach which extends Corporate Parenting duties to cover care-experienced people’s whole lifespan, in recognition that, as noted in The Promise, “Scotland’s parenting responsibilities are life long and holistic for the young people that Scotland has cared for” (p.92).¹

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

We welcome the proposals to require Scottish Ministers to create regulations to confer rights of access to care experience advocacy services. However, we believe that these proposals could be strengthened.

Firstly, independent advocacy services should be defined within the Bill. We note Who Cares? Scotland’s concern that leaving the definition of independent advocacy to be set out in secondary legislation will further delay the realisation of this right for care-experienced people, and may risk the definition being diluted so advocacy is

not truly independent.⁶ Given that the Mental Health (Care and Treatment) (Scotland) Act 2003 already provides a definition of independent advocacy, there is no reason to delay on the wording of a definition in this Bill. It should also be clear in the Bill that the right to advocacy includes non-instructed advocacy for babies, infants, and children with additional communication needs.

Additionally, this section should set out that the right to advocacy should apply to all care-experienced people, regardless of the kind of care they have experienced or how long they have been in care. The proposal in section 4, subsection 4, that the regulations may “specify circumstances in which, or descriptions of care-experienced people by whom, a right to advocacy services is exercisable” creates a concerning opportunity for these rights to be limited. We suggest this wording should be amended to “specify additional circumstances in which, or additional descriptions of people by whom, a right to advocacy services is exercisable”, allowing the scope of the right to expand but not reduce.

Care experience should also be defined more fully in the Bill, again to avoid further delay in the realisation of these rights for care-experienced people. While we appreciate that section 5 of the Bill requires Ministers to publish guidance which is to include a definition of care experience, we believe the interim definition published in the Bill could be more inclusive and contain at least the categories suggested in the Scottish Government’s consultation on a universal definition of care experience, each of which was supported by a majority of respondents.⁷ As such, subsection 6 should be amended to define care-experienced people as anyone who has been: “(i) looked after, including at home, in kinship care, foster care, residential care, at a residential special school, or in secure care, (ii) subject to a kinship care order, (iii) cared for in an informal kinship care arrangement, (iv) adopted, (v) cared for in supported accommodation, (vi) cared for or otherwise supported in such circumstances as may be specified.” This would ensure people with experience of these various forms of care have access to the rights introduced through the Bill as soon as it is passed, with the potential to widen this to other categories through the guidance.

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

We support these proposals, which we anticipate will help increase understanding of care experience and enable public authorities to deliver more effective, person-centred services for care-experienced people. As above, we believe care experience should be defined in more inclusive terms in the Bill, rather than the relatively narrow definition in the Bill being later widened in guidance.

Chapter 2

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

Proposals to limit profits in children's residential care services are a positive step, but do not go far enough. The Promise Scotland states that "There is no place for profiting in how Scotland cares for its children" (p.111),¹ yet the Bill in its current form only seeks to limit, not eliminate, profit from children's residential care. The proposed addition of section 78F, subsection 2, to the Public Services Reform (Scotland) Act 2020 would require Ministers to have regard to the wellbeing of children being looked after by local authorities, and to the interests of local authorities, but also to the interests of residential care service providers – including the opportunity to make a profit – before imposing or modifying a profit limitation requirement. This means the Bill not only fails to take action to eliminate profit, but appears to actively prevent these provisions from being used to this end in future. The Welsh Government has taken bolder action to eliminate profit entirely from its children's social care system through the Health and Social Care (Wales) Act 2025,⁸ and we encourage the Scottish Government to follow this example by requiring all children's residential care services to be registered as charities.

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

We support these proposals. We believe this requirement should be introduced in a phased way to allow sufficient time for independent fostering services that are not currently registered as charities to obtain charitable status. Clear guidance must also be provided to these services to support them in obtaining charitable status, and to their foster carers to explain the purpose of the change. The transition must be planned in a way that avoids any disruption to children's lives or to the retention of foster carers.

We consider there would be merit in extending the requirement for charitable status to adoption services. Although all independent adoption services currently operating in Scotland are registered charities, this change would prevent agencies without charitable status from providing adoption services in the future, and solidify Scotland's commitment to the principle that there is no place for profit in children's social care.

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

We strongly support proposals for a register of foster carers, something we have long campaigned for. We are pleased that provisions allow the register to potentially facilitate both "the approval (or otherwise) of persons as foster carers by fostering services" and "the placing of children with foster carers by fostering services" (new

section 30A, subsection 1). This would enable the register to deliver two key benefits: safeguarding children and young people, and supporting better informed matching of children with foster carers. These are in addition to the benefits we believe the register will bring to foster carers' status and the ease with which they can transfer between services, supporting retention.

The following comments relate to three specific parts of the provisions for a register of foster carers. Firstly, we agree that it would be beneficial for the register to include information about "persons who have been considered by a fostering service for approval as a foster carer but not so approved" (new section 30A, subsection 3), but suggest that this should only apply to those who have not been approved specifically because there are concerns about their suitability to work with children. The idea that an individual would be added to a register as soon as they apply to foster, even if they ultimately withdraw their application or their circumstances at the time prevent them from progressing, may discourage some from applying in the first place. At the very least, we believe there should be a requirement that the reasons an individual was not approved as a foster carer are included in the register, to avoid 'blacklisting' individuals who are not necessarily unsuitable to foster but were not approved due to their circumstances at the time of their application. This could mirror the requirement in subsection 2d to include the reasons a person's approval as a foster carer has been terminated.

Secondly, provisions in new section 30A, subsection 4, requiring information to be provided to the relevant person "by the fostering service which approved, or, as the case may be, did not approve the person to whom the information relates as a foster carer", make it the fostering service's responsibility to provide information to the register. We consider this appropriate for most of the information specified in subsections 2 and 3, but there are some cases where we think it would be useful for an individual foster carer to be able to update their own details, particularly in relation to the examples given in subsection 2f: other information about the person and other members of the person's household. It should be possible for a foster carer to provide optional demographic information about themselves, for example, or to add details of training they have completed, which could be used to provide more tailored matching suggestions for services. As such, we recommend that new section 30B, subsection 2 is amended to enable Ministers to make provision about foster carers' ability to access and edit their own personal data in the register.

Thirdly, provisions in new section 30E to allow the register to be operated on a pilot basis for a period of time are sensible, but we believe there are certain conditions for this to be effective. A pilot that applies only to "respite" (short break) foster carers may not be a good indication of how well a register would work on a national scale, particularly in relation to the matching of children with foster carers, as the administrative burden for short break carers to update the details of the number of children in their home – or for their fostering services to do so, if applicable – will be much higher than for foster carers who look after children for periods of months or

years. The transition to fully using the register may take longer for this group of carers, so the matching benefits may be slower to emerge. We therefore recommend removing the example of respite carers in subsection 2(a)(ii). Furthermore, if the pilot is only to apply to specified fostering services, a sufficient number of services should be chosen to allow the register's benefits for matching to be realised. These should be neighbouring or, in the case of independent voluntary providers, broadly coterminous services to allow local cross-service matching to take place.

Chapter 3

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

Many of the proposed changes to the Children's Hearings system in the Bill are welcome.

We are pleased to see provisions to create chairing and specialist members of the panel, and to enable remuneration of panel members, as recommended by the children's hearings redesign report to improve the consistency of panel members and ensure the relevant expertise is involved.⁹

We support the removal of a child's obligation to attend a children's hearing but believe this should be removed in all cases – children should never be forced to attend their hearing against their will. We are concerned by the removal of the presumption that children will attend, and call for this to remain in place, except for babies and very young children, to ensure children's right to attend is not eroded.

We are also disappointed that the language of "treatment or control" has not been modernised as recommended by the children's hearings redesign report. The addition of "support" does not negate the stigmatising and potentially frightening tone of this language for children and young people, and we believe the words "treatment or control" should be replaced entirely with "support".

Proposals to create powers to exclude persons from a children's hearing, or to remove relevant person status, are welcome to ensure hearings are safe for children and are focused on making decisions which are in their best interests. However, the Bill does not go far enough to centre children's views in decisions about who is involved in their hearing. We often hear from foster carers who tell us that they are not considered relevant persons in hearings for the children they look after, despite the fact that they often spend the most time with these children and can provide a great deal of insight into their needs. Although foster carers can apply to be 'deemed' relevant persons, many do not know how to do so or are not aware that this is an option. This means they are unable to meaningfully contribute to decisions about family time for children, planning for children's futures, arrangements for keeping in touch after children move on, and other important aspects of children's lives. Of

course, children may not always want their foster carers to have relevant person status, and this should be respected. However, we believe that in the vast majority of cases, where a foster carer has a significant role in the upbringing of a child, their inclusion as a 'relevant person' in hearings would be appropriate and welcomed by the child.

We have previously advocated for all foster carers to be automatically considered relevant persons in the hearings of children they look after, but now appreciate the practical difficulties with extending eligibility for automatic relevant person status in legislation. Nonetheless, we believe change is required to make it easier for foster carers, and other important people in children's lives, to be deemed as relevant persons, where this is in line with children's wishes and best interests. The easiest way to achieve this would be to require the Principal Reporter to seek children's views on who they wish to be involved in their hearing as part of new section 69A, subsection 3a. We urge the Scottish Government to introduce provisions to this effect. This would increase the likelihood that foster carers have the opportunity to be involved in children's hearings where appropriate, while ensuring that children's views are truly prioritised. Accompanying guidance must also be produced to support all who are involved in the hearings system to understand foster carers' role and to communicate with them about the process of being deemed a relevant person.

Part 2

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

We welcome the proposal to require integration joint boards to carry out functions relating to children's services planning jointly with local authorities and health boards.

Other

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

Foster carer finances

In addition to the lack of provision to extend Continuing Care or increase opportunities for foster carers to be involved in the children's hearings system, we are extremely disappointed that the issue of financial support for foster carers is missing from the Bill.

Our research, the findings of the independent review of the Scottish Recommended Allowance (SRA) for foster and kinship carers,¹⁰ and the analysis of the Scottish Government's consultation on the future of foster care¹¹ all demonstrate the inadequacy of financial support for foster carers. Less than a third (29%) of foster carers in Scotland who completed our 2024 State of the Nations' Foster Care survey said they feel their allowance and any expenses they can claim meet the full costs of looking after the children they foster. Furthermore, only 21% said their fee is sufficient to cover their essential living costs, for example bills, rent or mortgage, and food (not for the children they foster).¹² Data from FOI requests we sent to local authorities show that the average fee paid to local authority foster carers in Scotland in 2023/24 was £261.15 per week – equivalent to £13,579.80 per year, assuming fees are paid for all 52 weeks of the year. However, the level of fees paid in Scotland varied by up to £667.24 per week, or £34,696 per year. Furthermore, only 19% of local authorities in Scotland said they provide fees over the national living wage for a notional 40-hour week.¹³

Inadequate financial support threatens the retention of foster carers, as 28% of those who completed our survey in Scotland who have considered resigning from the role said financial difficulties contributed to this. It also hinders the recruitment of new foster carers, as fostering services in Scotland who completed the survey named finances as the primary reason preventing suitable applicants from enquiring about fostering.¹² Both these issues have a direct impact on children and young people by limiting the pool of foster carers available, meaning children may have to live far from their communities, with carers who cannot meet their needs, or in residential care where this may not be appropriate for them. Therefore, as The Promise (2020) notes, "To provide the care that children require, foster carers must be sufficiently financially maintained."¹

We have calculated the allowance rates required to cover the full costs of caring for a child in foster care.¹⁴ Supported by Pro Bono Economics, our calculations are based on Loughborough University's Minimum Income Standard for the UK¹⁵ and Nina Oldfield's research on allowances¹⁶ which includes the additional costs of caring for a child in foster care. While we will continue to campaign for the Scottish Government to increase the SRA to meet our recommended rates, we believe the SRA should be enshrined in legislation with a statutory annual uprating duty to avoid the delays and freezes we have seen since its introduction. We also believe the Bill should introduce a duty on all local authorities and IFAs to pay the SRA, and for local authorities to pass the appropriate funds allocated for this to IFAs, as the recent SRA review found this is not always happening. Additionally, the Bill should create a duty on services to publish information about their allowances and fees online, as the review found that not all local authorities have complied with the voluntary agreement to do so.

As for foster carer fees, these have been widely neglected in government policy, but the Bill is an opportunity to address this and make fostering financially viable.

Support for a national approach to fees is widespread among Scotland's fostering community: 73% of foster carers and 72% of fostering services in Scotland who completed our 2024 State of the Nations survey said they think the government should set a national fee framework to apply to all fostering services.¹² An even higher proportion of those who responded to the future of foster care consultation – 82% – agreed that there should be a national approach to foster carer fees and additional payments in Scotland.¹¹

We therefore recommend the addition of provisions to the Bill requiring Scottish Ministers to develop a national fee framework for foster carers within a set timeframe. The framework should set out that fees are to be paid 52 weeks a year to ensure foster carers are not left without an income when they do not have a child in their care. This should include periods of time when they are available to foster but do not have a child in their care, as well as during allegation investigations and short breaks from fostering.

Guidance on allegations

As well as the provisions requiring Scottish Ministers to create guidance on care experience, we believe the Bill should require Ministers to update the national guidance on allegations in fostering families. 91% of respondents to the 'future of foster care' consultation agreed that the Scottish Government should update its guidance on managing allegations against foster carers. While we were involved in the development of the 2013 guidance¹⁷ and we remain supportive of its key principles, new guidance is needed to reflect the latest language, best practice, and research on the impact of allegations on foster families. Additionally, the 2013 guidance has not been fully implemented across Scotland, so we believe new guidance should be on a statutory footing.

Many foster carers will experience an allegation at some point during their fostering journey. In our 2024 State of the Nations' Foster Care survey, 7% of foster carer respondents in Scotland reported experiencing an allegation in the past 24 months. Existing guidance states that independent support should be considered for foster carers subject to an allegation. Our position now is that all foster carers subject to an allegation should receive independent support, as well as the offer of counselling and support for their family, given the significant emotional impact that allegations can have on foster carers and their wider families. However, access to this support is still not widespread: in our 2024 State of the Nations survey, only 61% of foster carers in Scotland who had experienced an allegation in the previous 24 months said they received independent support, a fifth (21%) received specialist counselling support, and a fifth (21%) were offered support for their wider family.

Financial support is also limited during allegation investigations. In our 2024 State of the Nations survey, we asked fostering services if they continue making fee payments to foster carers if they are unable to foster as a result of an ongoing allegation investigation. Of the 17 fostering services that responded to this question

in Scotland, less than a quarter (24%, four services) said they pay foster carers fees for the full duration of the investigation and 29% (five services) said they do so for part of the investigation. This is likely to place additional pressure on foster carers. Therefore, it is crucial that full fees are paid throughout the entirety of investigations to reduce this pressure.

This is important both for foster carers' wellbeing, and to support retention. Of foster carers in Scotland who completed the 2024 State of the Nations survey, those who had experienced an allegation/s in the previous 24 months were twice as likely to say they were considering resigning from fostering (26%) than those who had not (13%). Furthermore, of foster carers in Scotland who had considered resigning from fostering at any point, almost a quarter (23%) said their experience of an allegation/s contributed to this. Allegations will inevitably be difficult for carers and it is essential that they are investigated thoroughly, but we would suggest that a process that is driving carers to consider resigning from the role is not working as it should.

We therefore believe the existing guidance on allegations should be strengthened to improve experiences for foster carers and help them continue fostering where appropriate. The Bill is an opportunity to ensure this issue remains a priority for the next government by creating a requirement on Scottish Ministers to update the guidance within a set timeframe. The new statutory guidance should require fostering services to provide foster carers with independent support, counselling, support for the wider family, full fees, and regular communication on the progress of their allegation investigation.

Learning and development framework

The Bill should also introduce a requirement on Scottish Ministers to create a statutory national learning and development framework for foster carers. While the Scottish Social Services Council's Standard for Foster Care¹⁸ includes expectations of foster carers' training, it is not sufficiently clear or user-friendly and does not appear to have been widely embedded across Scotland. Consequently, the quality of foster carers' training in Scotland remains in need of improvement. In responses to our 2024 State of the Nations' Foster Care survey, less than two thirds (64%) of foster carers in Scotland approved within the last five years said they would rate their pre-approval training as excellent or good. Furthermore, less than three in five (59%) of all foster carers surveyed in Scotland said they would rate their post-approval training as excellent or good.

A national learning framework was widely supported by respondents to both our survey and the Scottish Government's 'future of foster care' consultation as a way of improving the quality and consistency of training. 69% of foster carers in Scotland who completed our survey agreed that there should be a standardised accredited framework for pre- and post-approval training of foster carers, while a further 8% thought this should be the case for pre-approval training only, and 5% for post-approval training only. Additionally, 72% (13 of 18) fostering services in Scotland who

completed the survey agreed that there should be a standardised accredited framework for pre- and post-approval training of foster carers, while a further one service said this should be the case for pre-approval training only, and one for post-approval training only. In the 'future of foster care' consultation, 83% of respondents agreed that there should be national learning framework for foster carers which could also be a pathway for continuous development.

Again, introducing a requirement on Ministers to create a national learning and development framework for foster carers would ensure it remains a priority for the next government.

Other issues

We are concerned that not all the changes in the Bill will be within the scope of the United Nations Convention on the Rights of the Child (UNCRC) (Incorporation) (Scotland) Act. In line with the Scottish Government's maximalist approach to incorporating the UNCRC, we believe that where provisions in the Bill are currently proposed to amend legislation that is outside the scope of the UNCRC Act, these provisions should instead be created anew to bring them within the scope of the Act.

¹ Independent Care Review (2020) *The Promise*. thepromise.scot/resources/2020/the-promise.pdf

² The Fostering Network (2024) *The Fostering Network's response to the Scottish Government consultation on 'moving on' from care into adulthood*. thefosteringnetwork.org.uk/media/re4cynms/moving-on-consultation-response.pdf

³ Hill, K., Hirsch, D., Stone, J., & Webber, R. (2020) *Home Truths: Young adults living with their parents in low to middle income families*, Centre for Research in Social Policy, Loughborough University. lboro.ac.uk/media/www/lboro.ac.uk/external/content/mediacentre/pressreleases/2020/09/Loughborough%20-%20Home%20truths.pdf

⁴ ONS (2024) *Milestones: Journeying through modern life*. ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/milestonesjourneyingthroughmodernlife/2024-04-08

⁵ Independent Care Review (2020) *The Money*. carereview.scot/wp-content/uploads/2020/02/The-Money.pdf

⁶ Who Cares? Scotland (2025) *MSP Briefing on the Children (Care, Care Experience and Services Planning) (Scotland) Bill*. Available at whocares.scotland.org/resource-library/

⁷ Scottish Government (2025) *Developing a universal definition of care experience: consultation analysis*. gov.scot/publications/consultation-developing-universal-definition-care-experience-analysis-consultation-responses/documents/

⁸ Health and Social Care (Wales) Act 2025. Available at legislation.gov.uk/asc/2025/1/contents

⁹ The Promise Scotland (2023) *Hearings for Children: Hearings System Working Group's Redesign Report*. thepromise.scot/resources/2023/hearings-for-children-the-redesign-report.pdf

¹⁰ Scottish Government (2025) *Foster and kinship carers – Scottish Recommended Allowance: implementation review*. gov.scot/publications/review-implementation-scottish-recommended-allowance-foster-kinship-carers

¹¹ Scottish Government (2025) *Future of foster care: consultation analysis – final report*. gov.scot/publications/future-foster-care-consultation-analysis-responses-final-report

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- ¹² The Fostering Network (2025) State of the Nations' Foster Care 2024.
thefosteringnetwork.org.uk/policy-and-campaigns/state-of-the-nations/state-of-the-nations-foster-care-2024/
- ¹³ The Fostering Network (2024) *Out of Pocket: Fairer Fees for Foster Carers*.
thefosteringnetwork.org.uk/media/13gj534n/out-of-pocket-fairer-fees-for-foster-carers-report.pdf
- ¹⁴ The Fostering Network (2025) Cost of Fostering Campaign.
thefosteringnetwork.org.uk/policy-and-campaigns/our-campaigns/cost-of-fostering-campaign/
- ¹⁵ Loughborough University (2025) The Minimum Income Standard for the United Kingdom.
lboro.ac.uk/research/crsp/minimum-income-standard/
- ¹⁶ Oldfield, N. (1997) *The Adequacy of Foster Care Allowances* (1st ed.). Routledge.
doi.org/10.4324/9780429439865
- ¹⁷ The Scottish Government and The Fostering Network (2013) *Managing allegations against foster carers and approved kinship carers: How agencies should respond*.
gov.scot/publications/managing-allegations-against-foster-carers-approved-kinship-carers-agencies-respond
- ¹⁸ Scottish Social Services Council (2017) *The Standard for Foster Care*.
hub.careinspectorate.com/media/1625/standard-for-foster-care.pdf