

Care, Care Experience and Services Planning (Scotland) Bill Stage 1 Briefing Children and Young People's Commissioner Scotland

January 2026

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights.

The Commissioner is fully independent of the Scottish Government.

Key points:

Chapter 1 – Support etc for care experienced people

- We support the Bill and ask for MSPs to vote for this to pass stage one.
- We do think that there are improvements that can be made to the Bill and we hope that such changes will be brought at Stage Two.
- We support the extension of aftercare in sections 1 and 2 of the Bill and the extension of corporate parenting duties along the same lines in section 3.
- We support the principle of extending advocacy services.
- We have some concerns about the sections on guidance in relation to care experience

Chapter 2 – Provision of Children's Care Services

- We support the principle of profit limitation in the care sector
- We support creation of a register of foster carers.

Chapter 3 - Children's hearings

- We support the general principles of these sections.
- We have some concerns surrounding these provisions in their current form – particularly around attendance at hearings which we hope will be revisited at Stage 2.

We have previously provided the Education, Children and Young People Committee with written¹ and in-person² evidence on this Bill.

¹ CYPCS, 2025. *Children (Care, Care Experience and Services Planning) (Scotland) Bill – Stage 1 evidence* <https://www.cypcs.org.uk/resources/children-care-care-experience-and-services-planning-scotland-bill-stage-1-evidence/>

² Scottish Parliament Official Record 10th September 2025. <https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/pa-10-09-2025?meeting=16565>

Aftercare Provisions and Corporate Parenting Duties

This Bill addresses a significant gap in current legislation whereby children who cease to be looked after before their 16th birthday are not eligible for aftercare. At present children who ceased to be looked after before age 16 have no right to aftercare, even if they had been in care most of their lives and/or ceased to be looked when nearing their 16th birthday. We support both section 1 and section 2, which provides children and young people who have been in care in Northern Ireland with the same rights as children from Wales or England. We support the extension of corporate parenting duties, in section 3, on the same basis as aftercare.

Advocacy Services

Section 4 provides Scottish Government with the ability to increase access to advocacy services through regulations. We support these proposals in principle but would like to see the list of those who should be consulted to explicitly include care experienced children.

Guidance in relation to care experience

We note that section 5 of this Bill does not contain a universal definition of care experience, which was one of the key asks in The Promise. Instead it requires Scottish Government to develop guidance which may include a definition. Our Stage 1 briefing outlines our position on the development of any future universal definitions including the importance of involving care experienced children and young people in that process.

We have a specific concern that section 5(2)(a) as currently worded may result in public authorities taking the view they are under a pro-active obligation to identify care experienced adults. We think this would risk a disproportionate interference in the privacy rights of care experienced people and could unintentionally increase stigma, including when the care experienced person becomes a parent. We thank the Education, Children and Young People Committee for their recommendation relating to this.³ We ask that the words “Identifying and” be removed from section 5(2)(a), which would address our concerns.

Profit limitation in children’s residential care services

We would welcome the removal of profit from the care in children, as recommended by The Promise. We recognise concerns that there is a risk of adverse impact on availability of provision, so generally support the approach taken in this Bill.

³ Education, Children and Young People Committee, 2024.
<https://bprcdn.parliament.scot/published/ECYP/2025/12/17/2cf08836-9408-4f29-bba4-66d6e593f033/ECYPC-S6-25-10.pdf> page 42 and 44

Children's Hearings Redesign

We support the general principles of the proposals for children's hearing system redesign but ask for amendments to be made at stage two to improve compliance with human rights obligations.

Our main area of concern surrounds children's **attendance at their hearing**. We are concerned that removing the obligation to attend may result in reduced participation of children at their hearings, particularly for children with disabilities. In line with the committee report, we are in favour of there being a presumption to attend the hearing.⁴

Article 6 ECHR and Article 40 UNCRC concerns

We have specific concerns regarding hearings which are considering offence grounds or deprivation of liberty and interference with Art 6 ECHR⁵ and Art 40 UNCRC⁶ rights to a fair hearing. These are outlined in full in our Stage 1 briefing.⁷ We have raised these with Scottish Government and ask them to put in place measures to mitigate these potential rights interferences.

Panel composition

We are cautious but not opposed to the introduction of authority to convene children's hearings composed of a **single member** for certain defined preliminary decisions and for some narrow circumstances in interim Compulsory Supervision Orders. We think more work needs to be done to ascertain whether this will have a positive impact on children's experiences.

We support the introduction of a **paid chairing member** of the Children's Panel however, we do not see evidence of the benefit of the introduction of **specialist panel members** and feel this may further complicate an already complex system.

We recognise that **pre-hearing discussions** with the Reporter are already feasible without further legislation – we are concerned about this role expanding to involve discussion of grounds and feel that any discussion should be limited in scope, as was proposed in the 'Hearings for Children' report.⁸ There is potential for Art 6 ECHR and Art 40 UNCRC rights interferences as there is a potential for a child to incriminate themselves. We also have concerns about the capacity of the Reporters Administration to provide these pre-hearing discussions as drafted.

⁴ Stage 1 report on the Children (Care Experience and Services Planning) (Scotland) Bill. [Stage 1 Report on the Children \(Care, Care Experience and Services Planning\) \(Scotland\) Bill | Scottish Parliament](#)

⁵ European Convention on Human Rights https://www.echr.coe.int/documents/d/echr/convention_ENG

⁶ UNCRC Article 40. <https://www.cypcs.org.uk/rights/uncrc/full-uncrc/#40>

⁷ CYPSC, 2025. *Children (Care, Care Experience and Services Planning) (Scotland) Bill – Stage 1 evidence* <https://www.cypcs.org.uk/resources/children-care-care-experience-and-services-planning-scotland-bill-stage-1-evidence/>

⁸ Hearings for Children – Hearings System Working Group's Redesign Report – 2023- [hearings-for-children-the-redesign-report.pdf](#)

Establishing Grounds

We agree with the committee that the provisions which seek to reform the process for establishing grounds need to be reworked as in their current form they do not appear to improve the system and may indeed make it more complex.

UNCRC Scope

We repeat our concern that the Scottish Government continues to draft legislation that is outwith the scope of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Incorporation Act). This means that it will not be possible for children or others to challenge the exercise of any functions under these sections against the UNCRC requirements. We thank the Committee for the thorough consideration of this issue in the Stage 1 report and support their recommendation that the Scottish Government should explore how it might bring the outlying provisions within scope.⁹

For further information, please contact Kate Thompson, Policy Officer at kate.thompson@cypcs.org.uk

⁹ Stage 1 report on the Children (Care Experience and Services Planning) (Scotland) Bill - [Stage 1 Report on the Children \(Care, Care Experience and Services Planning\) \(Scotland\) Bill | Scottish Parliament](#) Pages 11-13