

The Highland Council

Agenda Item	7
Report No	HCW-22-25

Committee: Health, Social Care and Wellbeing

Date: 12 November 2025

Report Title: Children (Care, Care Experience and Services Planning) (Scotland) Consultation Report

Report By: Assistant Chief Executive - People

1. Purpose/Executive Summary

1.1 A Children's Bill was introduced on 17 June 2025, following the Scottish Government deciding that some reforms recommended by the Independent Care Review for Children & Young People required legislation. The Scottish Government issued a Call for Views with a deadline of 15 August to which Highland Council officers responded.

1.2 The Bill, subject to any changes, will be introduced across eight legislative areas at different stages of a child's interaction with the care system. The Bill, as introduced, seeks to improve services and support provided to people with experience of care. These changes include:

- giving people who left the care system before their 16th birthday the right to apply for aftercare
- requiring Scottish Ministers to ensure care experienced people have access to advocacy services
- requiring Scottish Ministers to publish guidance which promotes understanding of "care" and "care experience"
- giving Scottish Ministers powers to limit the profits that can be made from children's residential care
- requiring fostering services to register as charities
- giving Scottish Ministers the power to create a register of foster carers
- making changes to the children's hearings system.

The Bill also provides that Integration Authorities would have a role in children's services planning, alongside local authorities and health boards. Currently, not all IJBs across Scotland have responsibility for children's services so this would be a wholly new requirement for them. In Highland, whilst Children's Services are included in the Lead Agency Model Scheme as a conjoined function, the Integrated Children's Services Board reports directly to the Community Planning Partnership which provides the overarching vision. As such, this provision within the Bill does bring duplication and potentially, some confusion. It is too soon to assess what implications there may be if the Council and NHS Highland agree to changes to the Integration Scheme arising from the Models of Integration Review.

Highland Council officers responded to the consultation on the Children (Care, Care Experience, Services Planning) (Scotland) Bill, see **Appendix 1 HC Response to the Call for Views**.

Children's Services staff are acutely aware of the complexities and challenges that accompany the transition to adulthood for all young people. These challenges are often magnified for those who are currently, or have previously been, looked after, making the provision of ongoing advice, guidance, and assistance essential to their wellbeing and development. Consequently the response is broadly supportive of the Bill is a necessary component to delivery of The Promise.

However the response also aligns with the view of Social Work Scotland that there has been insufficient consultation with professional bodies prior to publication of the Bill. As a result the Bill, whilst commendable in its aspirations, is potentially unrealistic in terms of its application. Associated with this are genuine concerns surrounding the financial forecasting and workforce availability. The timing of the consultation, over the summer recess period, will have also acted as a constraint to full and through consideration by local authorities.

2. Recommendations

2.1 Members are asked to:

- i. **note** and **agree** to homologate the consultation response; and
- ii. **agree** the Council will continue to engage with all opportunities to inform the Bill's development as it progresses through Parliament.

3. Implications

3.1 **Resource** – Such legislation risks placing further pressure and stress on an already stretched workforce, presenting a challenge to the delivery of existing services as well as new. Change, such as those contained within the Bill requires planning, investment, time and people, all of which are immensely challenging to secure at this current time.

The total annual reoccurring cost of the legislation has been estimated at between £20.7m - £23.8m by 2028/2029. The 3 largest components of this relate to extending eligibility for after care services, expanding provision of advocacy services, and the reforms to the Hearings System. The main cost of extending the right to after care will fall on local authorities. The financial memorandum provides that these costs will be met in full through the Local Government Settlement. The preferred service model for advocacy services has not been determined.

3.2 **Legal** - The Bill was introduced on 17 June 2025 and is at Stage 1. It makes changes in the law in relation to the children's care system. It also changes responsibility for the planning of children's services and brings in amendments to existing legislation in order to do so. Ministers will be required to publish guidance setting out consistent language/terminology in relation to care experienced children & adults with experience of care. It will introduce a single consistent definition for use by all public authorities for determining eligibility and administering support and services to this group. It will not replace existing statutory definitions.

On 3 September 2025, Parliament agreed motion S6M-18697, that consideration of the Children (Care, Care Experience and Services Planning) (Scotland) Bill at Stage 1 be completed by 16 January 2026. This is an extremely tight timescale.

- 3.3 **Risk** – There are risks surrounding the financial forecasting surrounding the Bill and concerns surrounding workforce availability for delivery of the provisions. The size of the total 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. Members will be well aware of the workforce challenges existing in Highland.

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. Like elsewhere in Scotland, Highland's 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 unaccompanied asylum-seeking children. Many of these young people have experienced specific trauma, and the support provided must also be culturally and linguistically competent.

- 3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – There are no obvious health and safety implications.

- 3.5 **Gaelic** – There are no obvious Gaelic language implications.

4. Impacts

- 4.1 An integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
- 4.3 This is a report on the Children (Care, Care Experience, Services Planning) (Scotland) Bill and the potential implications that arise from it. An impact assessment is not required at this stage but if/when the Bill becomes law there may be a need to impact assess any changes to services prior to implementation.

5. Finance

- 5.1 Within the financial memorandum 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 often the most important aspect of the support social work can provide young people. The day-to-day realities of delivering "aftercare" are often extremely practical and relationships based.
- 5.2 The figures used to determine the costs of an assessment have been lifted from material provided to Scottish Government by Social Work Scotland 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

6. Children's Services Planning

- 6.1 Successful delivery of The Promise will require much more than what children's services can do on their own. Adult services have always been critical in ensuring service users benefit from 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 adult services are more critical than ever.
- 6.2 Overall, it is positive and welcome to see progress towards keeping The Promise, particularly from a legislative perspective, and THC are committed to further work with the Scottish Government to ensure this Bill keeps the voices of care experienced children, young people, and adults at its heart. Members will receive further updates following the Bill's progress.

Designation: Transition Head of Children and Justice

Date: 30 October 2025

Author: Jack Libby

Background Papers: N/A

Appendices: Appendix 1

Highland Council 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?

Whilst Highland Council (THC) recognises the critical importance of aftercare provisions for care experienced young people (CEYP), widening the eligibility criteria to include all children who at some point in their lives were 'looked after', does raise concerns. It is projected that if recent trends continue, the number of CEYP will reduce over time, although there are concerns surrounding the accuracy of the looked after children's data i.e. those in kinship placements. There is also the link between poverty and children assessed as being in need and at risk, which can impact on looked after children trends.

A significant economic 'down-turn could see this downward trend reversed. In addition to this, we also know that high profile child deaths, where there is significant media attention and an upward trend of looked after children figures. THC would expect SG to review the financial envelope should the number of CEYP increase as opposed to decrease.

In theory, a child could be 'looked after' for 1 week when first born and then have no further 'looked after' episodes throughout his/her life with no involvement from social work. Compare this with a child who was in receipt of social work support over a number of years but who did not reach the point of becoming 'looked after' due to parental cooperation. The former child remains on at school until the end of 6th Year and then progresses to university, with financial, practical and emotional support from family. The latter child leaves school at the end of 4th Year, with no qualifications and remains living at home where poverty continues to be evident. Which child is more in need of support? In addition to this, widening the criteria will bring with it added financial cost on local authorities and even if local authorities receive adequate, additional financial support from SG, there is no guarantee that suitably qualified and experienced staff will be identified to support the CEYP. We understand that this will be subject to an assessment of need and this requires to be explained as what factors would determine entitlement. THC understand the desire and need to support a wider group of CEYP and some CEYP do experience a number of care episodes that can amount to a considerable period of their childhood being looked after but happen not to be looked after of their 16th birthday. THC would be supportive of widening the criteria beyond its current position but would advise that there are parameters surrounding the criteria, when those with significant care experience fall into this category as opposed to a blanket policy such as the one proposed.

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

Please see above. THC and partner agencies are proud and active corporate parents but like all other partnerships, THC requires a sufficiency of financial and workforce resource to be the 'best parent' it can be. Having a sufficiency of staffing numbers, with the requisite skills is imperative in terms of enabling corporate parents to support CEYP into and throughout adulthood. To enable this to happen, having additional financial resources to

grow the next generation of social workers through traineeships and apprenticeships would be a sensible investment by SG.

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

THC support the proposed provision of life-long advocacy support for people with care experience. This would be in keeping with The Promise commitment which states that “care experienced children and adults must have the right [support] and access to independent advocacy, at all stages of their experience of care and beyond.” Too many CEYP and adults with care experience have challenges throughout their lives, including with their housing needs, their behaviour in terms of becoming involved with the justice system, their access to health services and challenges with relationships i.e. as parents in their own right and their interactions with social work services. It is important that the commitment is followed up with the required financial resource. What we expect from good parents, including corporate parents is that when we make promises, they are realistic and achievable as making false promises can cause more harm than good.

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

The Bill potentially includes a wide range of experiences and could result in the inclusion of those who would not choose to identify as care experienced. E.g. informal kinship arrangements who have never had any experience of social work involvement.

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 there could be a number of unintended consequences.

Part 1 - Chapter 2 of the Bill

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

With the number of privately run children’s house increasing almost fourfold over the past 13 years, THC is supportive of any actions that help reverse this trend. THC is of the view that there is no place for profiteering from children having to live in care, which is in keeping with The Promise.

What the Bill is proposing falls short of the commitments made in The Promise, as limiting profits does not equate to abolishing profits.

Ideally, the proposed change should be made before 2030 but Highland Council recognises the need for this change to take place more gradually in order to plan and resource the impact of the proposed and welcome change. An unintended consequence though is that providers could continue to operate in Scotland but when doing so, providing placements for children from elsewhere in the UK. Any legislation would need to prevent such a situation arising, where no child placed in care in Scotland is delivering a profit for any company, whether a child from Scotland or from out-with Scotland. THC recognises the work sitting alongside this Bill to help prevent cross-border placements into Scotland.

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

THC are supportive of this proposal as children in foster care should not be profited from and fostering services must attain charitable status. Further strengthening the not for profit model is a welcome direction of travel.

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

THC are broadly supportive of a national foster care register if it enables better matching of children to carers. Children from the more urban local authorities, who are part of a cluster of local authorities such as those in the central belt, are more likely to be beneficiaries. As for THC, we have a register of our own foster carers and work tirelessly to try and place children within their own community. Having a register may help with knowing where third sector foster carers are located although THC does tend to have this awareness due to children attending local schools. Whilst the creation and maintenance of a national register is supported by THC, the reality is that all 32 local authority areas in Scotland have a shortage of foster carers and any register will not address this challenge. The register may highlight where there are the greatest number of foster carers and where the deficits are. THC has an internal process for mapping where Highland's foster carers are located. The map clearly changes as carers come and go but generally, you will find the greatest number of foster carers where you have the greatest number of people.

An unintended consequence of having a register is the very fact that some prospective foster carers do not pursue fostering as they will not want their details stored on a national register, irrespective of the safeguards in place and the reassurances given. The messaging around any register will be critically important in terms of providing reassurance about what the data will be used for and how secure the 'systems' surrounding it are. It has been argued that having a fostering register could elevate the position of fostering and foster carers, which would be welcome but that in itself may not address the shortage of foster carers. The retention of foster carers is as important as the recruitment of foster carers and in a region such as Highland, supporting foster carers to the desired level is resource intensive and additional investment at a national level for recruitment and retaining foster carers would be welcome. THC does recognise the financial support and efforts made by SG in terms of the national recruitment campaign and the introduction of a recommended allowance for foster carers.

Fostering is in a precarious position in Scotland with year on year decreases in the number of foster carer households, with some children living in a residential setting when they are assessed as requiring a foster placement. A root and branch review is necessary as it seems no amount of recruitment campaigns is reversing this trend. The process from start to finish requires some form of rethink and restart.

Part 1 - Chapter 3 of the Bill

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

Allows for single member panel hearings & pre-hearings in certain circumstances only – THC does not oppose this proposal with the caveat that a single panel member is unable to make any significant or substantive decisions e.g. substantive decisions re imposing of or removal of an Order and that their role is restricted to preliminary Hearings, such as

Grounds Hearings and that the National Convenor has overall oversight of this process. The single panel member should follow the child's journey through the Hearing system. There would need to be sufficient training and support for the single panel member given increased legal representation at Hearings. THC is of the view that three panel members is in most circumstances an appropriate and proportionate number of decision makers. It allows for majority view decisions to be taken as opposed to one person making what are life changing and rights restricting decisions.

Enables the remuneration of certain children's panel members - Chairing Members and "specialist" panel members - only in certain defined circumstances – THC is not opposed to this aspect of the Bill, although THC feel it important to retain non remunerated, community represented panel members as this is in keeping with the founding principles of the Hearing system.

Removes the child's obligation to attend their hearing and proceedings before the sheriff, while still retaining the child's right to attend & for attendance to be required where needed – In keeping with The Promise and trauma informed practice principles and practices, THC is supporting of this aspect of the Bill on the condition that mechanisms are in place to ensure the child's voice is heard.

Makes changes to the process for establishing grounds to improve the child's experience – In keeping with The Promise and trauma informed practice principles and practices, THC is supporting of this aspect of the Bill.

Makes changes to the participation of relevant persons, where their attendance is likely to cause serious harm to the child - In keeping with The Promise and trauma informed practice and principles, THC is supportive of this aspect of the Bill, but with certain caveats, caveats consistent with those recommended by the Law Society for Scotland, who's feedback highlighted that 'whilst making provision for removal of 'automatic' relevant person status may appear a solution, the consequence of doing so is to curtail the rights of the affected person. Appropriate 'checks and balances' need to be in place to ensure parents can exercise their parental rights and responsibilities and where deprived of doing so, it is in proportion to the level of risk they place to the child, or disruption to the proceedings which in itself can be emotionally damaging to children. In terms of disruption and disagreement at Hearing, evidence would suggest that with there being an increase in legal representation at Hearing, there has as a consequence been an escalation in adversarial Hearings, again, having an adverse emotional impact on the child. The Bill could be an opportunity to address such behaviours.

Amends the threshold for referral to the Reporter to help reduce unnecessary referrals – THC is supportive is such measures that reduce unnecessary referrals. This must be done in such a way that there is greater national consistency to thresholds for referral and intervention. Additional guidance and training may support greater consistency of threshold application.

Information provision: places duties on public agencies to provide children with advance information about the referral, the hearings process and child advocacy services available - THC is supportive of this measure.

Changes the maximum duration of interim compulsory supervision orders & interim variation of CSOs – THC is supportive of this measure as should reduce the number of Hearings held. In addition to being trauma informed, it should assist with reducing the

amount of time social workers and other professionals spend attending Hearings, freeing up time for direct engagement with children and families. Improved guidance and increased training for panel members surrounding when a Hearing can be continued or when an early review can be decided would also reduce the number of Hearings a child attends.

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.

The Highland Council and NHS Highland are currently reviewing the Highland model of integration and in doing so will be taking the Bill into account in terms of the options under consideration.

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

THC are of the view that, consistent with the view of Social Work Scotland there has been insufficient consultation with professional bodies prior to publication of the Bill. As a result, the Bill, whilst commendable in its aspirations, seems somewhat unrealistic coupled with concerns surrounding the financial forecasting.