

ABERLOUR RESPONSE TO THE CHILDREN (CARE, CARE EXPERIENCE AND SERVICE PLANNING) BILL

August 2025

Aberlour is the largest solely Scottish children's charity. Delivering more than fifty services across Scotland, we work with disadvantaged, marginalised and discriminated against children, young people and families, providing services and support in communities around the country. We help to overcome significant challenges families face, such as the impact of drugs and alcohol, growing up in and leaving care, poor mental health, living with a disability, or the impact of poverty and disadvantage.

We aim to provide help and support at the earliest opportunity to prevent problems becoming intractable or spiralling out of control. We are committed to Keeping the Promise and to the realising the human rights of all children and young people. This means working every day to make rights real for the children, young people, and families we support and being unwavering in our ambition to ensure all of Scotland's children have an equal chance regardless of their start in life.

Introduction

At Aberlour we understand the importance of Scotland Keeping the Promise by 2030. We provide safe, loving and supportive services across Scotland for children and young people who often face complex challenges. These include residential children's houses, mother and child recovery houses and many other services with a focus on supporting children and young people to remain with their families where it is safe to do so. Applying a rights-based approach, we are committed to meeting the needs of those with care-experience and supporting them to fully access their rights.

Our response will refer to key challenges and specific issues affecting care experienced young people unable to live with their families, unaccompanied asylum-seeking young people, and young people with disabilities and complex needs. We comment on the proposals contained within the Bill but also reflect on the wider systemic changes required if we are to Keep the Promise by 2030. Like many others, we share concern about the lack of progress and pace in implementing change and therefore support the passing of the Bill in this parliamentary term to build momentum and deliver on The Promise we have made to Scotland's children, young people and families.

However, there are challenges within this Bill, and on its own it will not be enough to deliver the change required. There is much wider work needed to strengthen supports for families, declutter the care landscape and truly put the voices of care-experienced people at the heart of any new system. Our organisational ambition to eradicate child poverty and give all children an equal chance, and the best possible start in life is at

the heart of everything we do. This is all part of our defining mission: “to be brave for our children and young people.” To that end, we urge the Scottish Government to do the same.

Our response focuses on aspects of the Bill that relate to services where we have direct experience. Throughout our consultation response, we have reflected what children, young people and families at Aberlour have told us as part of our commitment to upholding their right to have their voices heard. The issues we raise are not new, and reflect feedback shared across previous consultation responses, evidence sessions with the Scottish Parliament and directly in dialogue with colleagues in the Scottish Government, MSPs, policy makers and wider decision makers across Scotland’s Children’s Service Leadership.

We urge Scottish Government to commit to undertaking the necessary actions to ensure we fulfil our commitment to Keep the Promise to all Scotland’s children, young people and families.

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

The extension of aftercare to apply to children and young people who leave care before their 16th birthday is welcome.

We also welcome the confirmation that aftercare provision will apply to unaccompanied children and young people under 16. However, most unaccompanied children and young people are over 16 years old when they arrive in Scotland.

Unaccompanied children and young people who come to Scotland through the National Transfer Scheme, have looked after status and therefore ‘experience of care’. Scottish Government’s Ending Destitution Together Strategy 2021-2024 also stated that ‘Unaccompanied asylum seeking children (UASC) are treated as ‘looked after’ children’ (p.40), however, the proposals for aftercare provision set out in this Bill are unclear on whether unaccompanied children and young people who come to Scotland post-16 have the same rights and status as other looked after children. Therefore, we would like this to be clarified.

Data from our national Guardianship service suggests the biggest issue for unaccompanied young people accessing aftercare support is the lack of consistency in provision across different local authority areas. Any ambiguity in entitlements will result in further inequity.

It is also essential that steps are taken to explicitly address how the proposed changes in aftercare provision within this Bill will interact with other pieces of legislation, most notably continuing care and the right to return.

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

We agree that advocacy is important to ensure that children and young people’s voices are heard and their rights realised at every stage of their care journey.

However, rather than solely relying on an extension to independent advocacy to uphold rights, our collective implementation of the UNCRC and the GIRFEC approach should ensure that all services who have a footprint in the lives of children and young people have a role in ensuring the child’s voice is heard. Many of the professionals in the team around a child will see a core part of their role as being an advocate for a child, taking account of a child’s views and wishes and balancing this with their ‘best interests’. Some of the children and young people we support have shared while they can feel let down by the system at times they worry that having even more professional roles created to try to fix this will not work. There is a risk by adding more

professionals to an already cluttered landscape we create further complexity and inadvertently push the voices of those we seek to centre to the margins.

Therefore, while we support the proposal in principle, we believe advocacy should be consent based and only put in place where a child wants this, rather than making it a requirement. There are of course situations where independent advocacy is hugely valuable in terms of ensuring the voice of the child is not lost and a specialist role with the primary purpose of upholding children's rights where there is conflict and complexity is highly effective.

However, we think in many cases the best form of advocacy comes from family support workers, youth workers, social workers and others who have strong relationships with children and young people already.

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

We have previously called for and agree with the proposal that guidance is produced to articulate definition of care experience. It is important the language chosen reflects children, young people and families preferred terminology. However, while for some children and young people their care experience is an important part of how they identify, others may have a more complicated relationship with their care status.

Although we are supportive of the proposal, we believe it is important it is clearly explained how any change to how we define experience of care influences existing legislation or eligibility for certain supports. It is essential any new definition takes account of potential unintended consequences, including resource implications of extension of supports to a wider group of children, young people and adults.

Experience of care includes a wide range of situations; however, one universal aspect is the presence of professionals and care providers in a child's life. While children and young people with disabilities are not given the same status as 'Looked After' children, and while we do not propose they should not be defined as such, more needs to be done to ensure they are better supported to create more positive transitions and their rights are upheld as they move into adult services.

We also believe unaccompanied children and young people should be included in the definition of care-experience, so they can access the services and supports they require. While young people within our Guardianship service are deemed 'Looked After', they are at times still unable to access entitlements under current legislation due to differing interpretation of current law and variation in available supports across different local authorities. Any new guidance must generally offer clarity for this group and make clear that UASC should be accessing these entitlements.

However, important as the language we use to describe care experience is, even more important is the range of supports available to address the needs of people who fall within the agreed definition.

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

While we support action to eliminate profiteering from the care system, we have grave concerns about the potential impact of these proposals on residential care providers. The ability for a Minister to put a profit limitation requirement on services could have catastrophic impact on our ability to deliver high quality, flexible, responsive care for some of our most vulnerable children and young people.

The current way our system both designs and commissions services, means Children's Residential Care providers need to be able to generate some surplus in order to manage shifts in demand. Within Aberlour, surplus income from our residential services is used to maintain full staffing, even when we are supporting reduced numbers of children due to higher levels of complexity or periods of lower demand for places in our houses. We invest heavily in our Children's Residential Services to ensure we are providing the highest quality care, supporting staff learning and development, offering clinical supervision and engaging in a range of other developmental and practice opportunities. Our physical buildings are under constant review to ensure children and young people in our care live in warm, comfortable, nurturing environments which are designed to support their healing and growth. Eliminating the ability of organisations to manage the financial instability of the external landscape through the introduction of restrictive and reductive approaches will put services at risk.

So while we agree in principle that organisations should not profiteer from children's care, there is a need for much greater clarity on the proposals, including assurances that high quality and choice for children and young people will not be eroded.

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

In principle, we support the proposal to require fostering services to be charities. Our assumption is this is viewed as a way of preventing profiteering in the care sector and ensuring that any surplus is reinvested back into the services that look after children, young people and families. Eliminating profiteering is a clear goal of the Promise and one we support.

However, it is important that this proposed change is not a step towards phasing out of Independent Providers, a view expressed in some consultation responses shared within the analysis of the Future of Foster Care Consultation. Our view is having a rich and diverse range of fostering provision supports recruitment, retention and ultimately the availability of different types of support settings which meet a wider range of needs. In our experience, foster carers also express that they value having a choice about the agency they choose to foster with. Many of our foster carers have a longstanding connection to our organisation which holds great meaning for them and us. In addition, in Aberlour we invest a lot of time and resource in ensuring our foster carers and their wider family are supported in a way which upholds our organisational values and approach. Although we are a small provider, we offer bespoke placements, often for children who have complex needs and require additional care and support to settle in their new home and find the stability they need to heal and grow.

In addition, while we understand the underlying intention of the proposal, we are aware a shift of this nature in the current climate could further destabilise an already fragile fostering landscape. Great care would need to be taken to mitigate any risk of rupturing stable fostering arrangements which are working well for children and young people, ensuring they are not impacted by any wider organisational changes. Steps would also need to be taken to ensure changes do not accelerate the loss of existing foster carers given the challenges we have across Scotland in recruiting new families to undertake this role.

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

To express a view on the creation of a centralised register of foster carers we would require greater detail on the intended purpose of this. Foster care is already a very regulated area of practice and any additional requirements need to have a clear rationale explaining the intention of the change and how it would impact or intersect with other regulatory activity.

While we understand a national register may support better oversight and strengthen safeguards for children and young people, there are complexities around GDPR, maintaining and updating the information collated, agreeing who would be able to view this and in what circumstances.

As already stated above, our foster carers state they value having a choice about the agency they choose to foster with and have joined us because of our values, approach and the specific supports we have in place. This has led to us having a very stable group of fostering families who have been with us for many years. A risk of introducing a fostering register, depending on how this is managed, could be increased movement of foster carers between different fostering providers, putting additional pressure on an already fragile sector.

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

We welcome much of the change that has been proposed for the Children's Hearing System and refer to the Children's Hearing System's response¹.

We support proposals which mean the Children's Hearing System will become smaller, focusing the resource to deliver more specialised support with greater consistency of engagement to ensure children and young people are comfortable and their voices are heard more clearly.

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

We believe that not all reform to the care system will be achieved through legislative change, however, we recognise there are areas where this is necessary to create momentum for change.

The success of this Bill and our wider ambition to Keep the Promise by 2030 will be hugely influenced by our ability to scale up and deliver whole family support in the way children, young people and families have told us will best meet their needs. Without radical extension of the current whole family support infrastructure and increased investment in earlier intervention and prevention, transformation of the care system will not be possible.

We are not confident the financial memorandum is adequate. If this Bill is to be successful and become an Act before dissolution of Parliament next year, there needs to be a lot of work done to ensure there is proper resourcing of the proposals laid out in the Bill so that its impact is felt. We refer also to previous answer around

¹ 'CHS Welcomes the Children (Care, Care Experience and Service Planning) Bill, Children's Hearing Scotland; 18th June 2025: <https://www.chscotland.gov.uk/what-we-do/latest-news/chs-welcomes-the-children-care-care-experience-and-services-planning-scotland-bill/>

the proposals around residential and foster care – the unintended consequences of both need to be fully considered within the financial memorandum. We are concerned the memorandum significantly underestimates costs at present. This level of financial risk needs to be given more thoughtful consideration, and we envision this may be a huge barrier to the passage of the Bill through committee and subsequent stages.

We also note the Bill relates to legislation that pre-dates devolution such as the Children and Young People's Act 1995 (Scotland). We are therefore concerned that children and young people who wish to take action under the UNCRC Incorporation (Scotland) Act due to being unable to access entitlements contained within this Bill will be unable to do so. We need to ensure all new legislation is actionable as otherwise, the long-awaited and hard-fought UNCRC rights enshrined in law become meaningless, and some children and young people will continue to be failed. We refer to Together's briefing on this issue².

Finally, we do not believe this Bill on its own will resolve all the challenges we currently have. Our hope is that further legislative change prioritises decluttering the landscape, simplifying systems and processes so children and young people understand and can easily access the supports they need to thrive and have their rights upheld. However, we recognise the importance of this Bill in taking us a step closer to Keeping the Promise for 2030 and we are therefore committed to making sure the best version of this legislation is passed before dissolution of Parliament.

For more information please contact Chloe Robertson, Policy and Participation Officer, at chloe.robertson@aberlour.org.uk

² Keeping our Promise: Bringing the Bill within reach of the UNCRC Act, Together:
https://togetherscotland.org.uk/media/4139/cccesp_uncrc_scope_final.pdf