

Ministear airson Òigridh agus Clann  
Minister for Children and Young People  
Aileen Chaimbeul BPA  
Aileen Campbell MSP



F/T: 0845 774 1741  
E: [scottish.ministers@scotland.gsi.gov.uk](mailto:scottish.ministers@scotland.gsi.gov.uk)

Stewart Maxwell  
Convener  
Education and Culture Committee  
[ec.committee@scottish.parliament.uk](mailto:ec.committee@scottish.parliament.uk)



29 November 2013

Dear Stewart,

## **CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL – STAGE 1 REPORT**

I wrote to you on 20 November 2013 to confirm receipt of the Stage 1 report from the Education and Culture Committee on the Children and Young People (Scotland) Bill. As I said in that letter, I welcome the Committee's consideration of the Bill during Stage 1 and support for its general principles.

I have considered the points raised in the report and reflected on the views expressed during the Stage 1 debate last week. I attach the Scottish Government Response to the report.

I look forward to continued working with the Committee as the Bill continues its Parliamentary scrutiny.

**AILEEN CAMPBELL**

# **Children and Young People (Scotland) Bill**

## **Scottish Government Response Stage 1 Report**

**November 2013**

## **INTRODUCTION**

I would like to thank the Education and Culture Committee, Local Government and Regeneration Committee, Finance Committee and Delegated Powers and Law Reform Committee for their consideration of this legislation at Stage 1. I welcome the report and the Education and Culture Committee's support of the Children and Young People (Scotland) Bill which reflects the many positive responses you received about it.

The Bill is central to the Scottish Government's aim of making Scotland the best place in the world to grow up. We believe that its proposals: to place new emphasis on the importance of promoting children's rights; to provide a framework nationwide to ensure services are designed around the needs of each child and young person, and that they are supported whenever they are in need; to extend the availability of Early Learning and Childcare; and to provide more support for looked after children will improve the life chances of children in Scotland, and make for a happier, more successful country.

During my evidence I made clear my position that we will continue to consider all views and I note the Committee's desire for further information on some areas. I am keen to clarify as many of these issues as I can and responses to all of key points raised in the Stage 1 report are set out below. For ease of reference I have used the paragraph numbering from your report.

I welcomed last week's debate and look forward to continuing work with the Committee, stakeholders, partners and colleagues as the Bill progresses through the Parliamentary process.

## **RESPONSE TO STAGE 1 REPORT KEY POINTS**

### **Part 1 - The Rights of Children and Young People**

**40. We recommend that the Scottish Government provides an explanation of the practical actions it intends to take to increase awareness of children's rights, including details of the tool that will be developed.**

Strong awareness and understanding of the United Nations Convention on the Rights of the Child (UNCRC) is absolutely essential in order for the other rights duties in the Bill to work. Ministers can only identify how best to further rights if they have a clear knowledge and understanding of what the Convention requires. The Children's Rights Impact Assessment tool, detailed on Page 5, will help to increase awareness and understanding of children's rights within the Scottish Government, ensuring that policies are properly informed at a national level.

The Scottish Government already takes forward a significant amount of work to increase awareness and understanding of children's rights. Examples of recent activity include:

- Establishment of a charitable partnership with UNICEF linked to the 2014 Commonwealth Games. As part of that partnership, Scottish Ministers will support UNICEF to deliver work throughout Scotland and across the Commonwealth to promote the importance of children's rights and the realisation of the UNCRC between now and 2018. In addition the Scottish Government has agreed funding of £50,000 in 2013/14 for UNICEF to undertake specific activities supporting raising awareness and understanding of children's rights among children, young people and their families;
- The development and delivery of the learning resources – Recognising and Realising Children's Rights - designed to increase awareness and understanding of children's rights amongst learning professionals across Scotland. As well as increasing knowledge, the resources (launched by Education Scotland at this year's Scottish Learning Festival) will support teachers and others to assess how they might improve the realisation of children's rights in their establishments. Roll-out of the resources is now underway, with an evaluation planned for 2014/15. This is in addition to, and complements, UNICEF's work on Rights Respecting Schools;
- Core funding of 'Together', a national alliance of third sector children's organisations tasked with promoting children's rights and scrutinising implementation of the UNCRC in Scotland; and
- Publication and dissemination of information materials for individuals of all ages, providing information on children's rights and the Scottish Government's approach to implementation of the UNCRC.

Moving forward, we will continue to identify further opportunities, like these, to strengthen awareness of children's rights, working in partnership with Scotland's Commissioner for Children and Young People, Together and other key stakeholders. As certain programmes of work conclude, it will be necessary for the Government to identify how best to target future resources in order to maximise impact with our awareness raising activity. The Bill will ensure that future Governments adopt a similar approach.

**40. We also recommend that, in addition to reporting on the steps they have taken to fulfil their duties under Part 1, Ministers should be required to report on the activities they intend to undertake to further children's rights in each three year period.**

This Government is already committed to the production of regular plans describing how they intend to give effect to the principles of the UNCRC, the last of which was published in May 2012. We recognise the important role that these documents play, allowing organisations and the public to hold the Scottish Government to account around the progress being made in this important area. We can see some potential benefit in formalising this arrangement and are happy to work with the Committee to explore how this might be delivered through the Bill.

**41. In relation to the duties placed on public authorities, we recognise there are different views on the wording of the Bill. We seek further clarification from the Scottish Government on why it has chosen not to include duties to**

**‘keep under consideration’ and thereafter, to ‘take steps identified by that consideration’.**

The public sector reporting duty will increase transparency around UNCRC compliance, supporting the Scottish Government, the Parliament and Scotland’s Commissioner for Children and Young People to hold to account those who play a key role in making rights real for children at a local level. We feel that the duty as currently drafted strikes the right balance. It is not overly onerous at a time when service providers are facing considerable pressure. It also reflects the fact that public bodies already have a host of existing legal obligations which support the aims of the UNCRC. Those legal requirements will be increased through, for instance, the *Getting it Right for Every Child* (GIRFEC) provisions in the Bill.

The reporting duty will ensure that all relevant public bodies deliver their work with a clear focus on children’s rights, helping to provide a comprehensive picture of how their activity contributes to compliance with the UNCRC’s principles across Scotland.

**42. We welcome the intention to allow public authorities to report under this Part in their annual reports. We note that there are a number of new reporting and planning duties in the Bill, which often fall to the same organisations. We therefore ask whether some of these duties could be better integrated.**

We will be actively encouraging public bodies to satisfy their reporting obligations in a streamlined and co-ordinated way. For example, we will be suggesting that certain public bodies satisfy their duty to report on children’s rights through the children’s services planning process in the Bill.

There are some practical challenges associated with reflecting this approach on the face of the Bill and that is why our preference is to pursue better integration through guidance which will be developed in partnership with stakeholders. Nevertheless, we remain open to suggestions regarding how the Bill might be strengthened to support these aims.

**43. We note that Article 42 is incorporated in the Bill and request the Scottish Government’s response to the Children’s Commissioner’s suggestion that Articles 3 and 12 also be included.**

The Scottish Government is of the view that implementation of the Convention is best achieved through targeted, meaningful and effective laws and policies. The Articles which are set out in the Convention vary significantly in terms of their scope and focus. Some are targeted and specific whilst others are broader and more aspirational.

Our view is that the principle underpinning Article 42 can be easily translated into a meaningful duty which will make a practical difference to children’s lives. However, this is not necessarily the case for other aspects of the UNCRC. For this reason, we have some reservations about the Commissioner’s suggestion regarding incorporation of Articles 3 and 12. That being said, we continue to discuss with the

Commissioner how the provisions in Part 1 may be strengthened and would not want to pre-judge the outcome of that work.

**44. A number of organisations expressed disappointment that the Scottish Government did not undertake a Child Rights Impact Assessment (CRIA) on the Bill. We wrote to the Scottish Government on this matter. We accept the Scottish Government's reason for not undertaking a CRIA in this case, which was due to the extensive engagement activities carried out during the Bill's development. However, the Scottish Government should commit to undertaking CRIAs in relation to relevant future legislation.**

The Scottish Government agrees with the Committee about the importance of measuring the impact on children's rights, not only in relation to legislation but also in policy development and delivery more generally. That is why we have committed to develop a Children's Rights Impact Assessment tool, and work on this is already underway. As with other Government impact assessment tools, such as the Equality Impact Assessment and the Business and Regulatory Impact Assessment, the requirement to undertake a Children's Rights Impact Assessment can be achieved through non-legislative means. Accordingly, we do not feel there is any need to explicitly reference Child Rights Impact Assessments on the face of the Bill. That being said, details of any such process could perhaps be included in 3 yearly plans focussing on the Government's approach to children's rights which have been suggested by the Committee and referenced in our response to paragraph 40 above.

## **Part 2 – Commissioner for Children and Young People In Scotland**

**58. We expect all parties to be clear about the interpretation of the Commissioner's new powers and suggest that, if necessary, the Bill should be amended to ensure this.**

The Bill, as currently drafted, provides a clear framework within which the Commissioner's investigatory powers can be exercised and we see no immediate need to amend the provisions at Stage 2. Nevertheless, we are happy to consider any suggestions put forward prior to Stage 2.

In the meantime, the Commissioner continues to liaise with other complaints handling bodies in order to establish suitable processes for handling cases which come forward, negating the potential for duplication and ensuring that issues are resolved at the lowest possible level. The Scottish Government will continue to offer support as that work progresses.

**59. The issue of resources is closely linked to the interpretation of the Commissioner's new powers. If the resources are primarily aimed at funding staff to handle more enquiries, we question whether the proposed level of staffing is necessary. We are mindful of evidence indicating that the estimated £160,000 p.a could be better spent on, for example, greater access to mediation for children and young people, and are keen to ensure that any costs are fully justified. We recommend that the Scottish Government gives**

**further consideration to the volume and type of work that any extra enquiries will require.**

The cost estimates in the Financial Memorandum relating to the extension of the Commissioner's powers have been influenced and developed in conjunction with a number of relevant stakeholders who have experience of enquiries handling and investigation. We have also consulted the Scottish Parliamentary Corporate Body who fund the Commissioner's office.

We feel that the estimates in the Financial Memorandum are fair. They take into account the need for increased capacity within the Commissioner's office to deal with the likely increase in general enquiries as well as any full investigations. We continue to engage with the Commissioner and Parliamentary officials regarding the resource requirements linked to the provisions and will be mindful of those discussions as the Bill progresses. We will also keep these issues under review in light of experience following the implementation of these provisions.

### **Part 3 - Children's Services Planning**

**75. The Scottish Government should clearly illustrate how children's service plans fit within the wider Government strategy to integrate service planning across for example, the Public Bodies (Joint Working) (Scotland) Bill, the proposed Community Empowerment (Scotland) Bill and with Single Outcome Agreements and Community Planning Partnerships.**

The Committee has asked about the relationship between the planning provisions in the Children and Young People and the Public Bodies (Joint Working) (Scotland) Bills, as well as the ongoing work on community planning. The range of proposed changes shows the Scottish Government's determination to take forward the principles of the Christie Commission, ensuring that there is more effective, more joined-up planning between bodies at local level. They all share the same core principles and aims with respect to future planning.

With respect to Community Planning Partnerships (CPPs), the children's services plans set out in the Children and Young People (Scotland) Bill will feed into the wider community planning processes. As with other public sector bodies, there is a mutual relationship between CPPs and the children's services plans. On the one hand, CPPs and their constituent partners will take account of the needs of children and young people in local communities, as set out in the children's services plans. On the other, Single Outcome Agreements (SOA) will set the framework for planning in children's services through the local, high-level priorities agreed by each CPP.

With respect to the Public Bodies (Joint Working) (Scotland) Bill, while the Children and Young People Bill (Scotland) requires planning for children's services across the whole range of public bodies, the Public Bodies (Joint Working) (Scotland) Bill focuses on the planning and delivery of health and social care specifically. The children's services planning proposals of the Children and Young People (Scotland) Bill build on the existing good practice in planning that Local Authorities have been taking forward as part of the responsibilities under the Children (Scotland) Act 1995.

The new proposals will put in place an overarching framework and a mechanism for strategic coordination of planning of all key services affecting the wellbeing of children and young people. The planning requirements of the Public Bodies (Joint Working) (Scotland) Bill, should Local Authorities and Health Boards decide to include children's services, will feed into developing the plans required of the Children and Young People (Scotland) Bill. Full alignment will be ensured through the parallel development of guidance for the duties in both Bills.

#### **Part 4 – Provision of Named Persons**

**113. We invite the Scottish Government to provide details of the range of support it will make available to ensure that local authorities and health boards are able to replicate the successes experienced in Highland, recognising the different circumstances that will prevail in different parts of the country.**

The Scottish Government realises that every local area in Scotland is not the same and faces its own challenges in the implementation of GIRFEC. However, recent work carried out on behalf of the GIRFEC Programme Board has indicated that most areas of Scotland have already begun implementing GIRFEC and are seeing results.

A number of implementation advisers have been seconded into the GIRFEC team within the Scottish Government. They have been working to support local areas with GIRFEC implementation. These individuals have come from posts within Local Authorities, a Health Board, Police Scotland and the Third Sector in different parts of Scotland. They work alongside local managers and planning groups. Their expertise from many years' experience of children's services in these agencies is helping to ensure that good practice is shared across the country and characteristics that are unique to specific areas are considered during implementation.

Since 2008 the Scottish Government has provided grant funding (around £600k per annum) to support implementation at local level in CPPs. This has been either through funding Learning Partnerships (Edinburgh/Lanarkshires) or supporting CPPs to come together in groupings to progress local implementation and to mainstream changes in systems, practice and culture. The lessons from CPPs have been shared and have formed the basis for much of the progress now being reported across the country. The Scottish Government team will continue to facilitate implementation in CPPs, many of whom are already making good progress, building on the investment we and they have made to date.

The Scottish Government team, as part of this process, has also been in discussion with partners over the content and format of the statutory guidance which will support practice. Detailed draft guidance will be shared next year to seek views and input from the people who will be asked to implement GIRFEC or who will be affected by its implementation. This guidance will seek to ensure the consistency of approach that has been lacking up till now, based on the legislative framework proposed by the Bill.

In terms of leadership the GIRFEC Programme Board has put in place an Implementation Sub Group, chaired by a Chief Executive of a Local Authority, to

develop and oversee implementation at a strategic level. CPPs will report progress with implementation to this group periodically. This group has been established to provide national leadership to ensure that training resources and good practice are disseminated and that any barriers to implementation are noted and responded to as appropriate.

In March 2013, the Scottish Government launched the National Third Sector GIRFEC Project, to support CPPs to recognise and embed the role of the Third Sector in implementing GIRFEC. This work will run until March 2016. It will promote good practice and share learning from intensive work in at least four CPP areas.

**114. We believe the success of the named person role will depend on the Scottish Government's ability to work with its local partners to clarify a number of practical issues, which we bring to the attention of the Parliament.**

**i) The issues a named person would be expected to handle outwith their core professional area:**

The Named Person will always carry out their functions within the bounds of their professional expertise. They will, however, be supported in doing so by the management framework within their own service and a range of other professionals who form part of the network of support for children and families at a local level. This builds on current good practice where, for example, a Health Visitor can ask for advice from other more specialist practitioners within health, or other services, and a Head Teacher can consult with an educational psychologist, or social work colleague to address concerns related to individual children or families.

Although in many cases the Named Person will be able to provide advice and support from within their own resources, they will not always be the source of support. The Named Person will be in a position to call on other services to provide such support to the child or family or to direct families to other kinds of supports.

Where assessment and planning indicate that concerns about wellbeing will require a range of coordinated interventions for a child, then arrangements will be in place, supported by guidance, for a Lead Professional to manage the Child's Plan. The Named Person will work with the Lead Professional and will do so in line with locally agreed procedures.

**ii) The types of intervention a named person would be expected to make:**

The role of the Named Person will be varied. Providing support to parents, children and young people might be as simple as taking the time to meet with them to talk through the difficulties they are facing. The Named Person role incorporates and builds on the role of key staff in universal services who offer children and parents valuable, easily accessible practical support in line with best practice.

The Named Person may provide support from within the resources available in the universal services, or help a family negotiate their way through systems and services. For example, where a school-age child is struggling with homework due to

their parent's difficulties with literacy, the Named Person might arrange for them to attend a homework club in school, and provide the parent with advice about adult learning opportunities available in the community. Importantly, they will have a greater awareness of the context of the child's life, and will be able to take this into consideration as they routinely support the child – e.g. making sure that they communicate appropriately with the parent.

In the early years the existence of the Named Person Service will mean that when parents need advice or help they know who to turn to (normally the Health Visitor). Children in need due to particular circumstances will utilise the service more than the majority of families. However many families may well use the service for support with issues such as: relationship difficulties; separation, loss or bereavement; play; advice on moving home; nurturing particular gifts or areas of development; nutrition, etc. as well as core NHS Health Visiting responsibilities.

Transition from primary to secondary school is a key point in a child's development where the Named Person's role can be particularly important. If, for example a young person is struggling to settle in to school, the Named Person may arrange for them to have an older pupil to act as their buddy to help them find their way around school. They might also encourage them to join in with social activities around school to help them form new friendship groups. Review by the Named Person may indicate that this support alone cannot address the settling in issues, and further information which comes to the Named Person may indicate that other factors related to the child's health or activity within the community are impacting on wellbeing. If this happens, then the Named Person is well placed to review the support plan in discussion with the child and family, and with the other professionals who may have a role in providing the right support. A Child's Plan may then be developed to reflect a range of targeted interventions, both within education services and from other agencies, or community services.

**iii) The point at which a named person would be expected to pass a case to a lead professional, and in what circumstances would it be appropriate for a named person to take on the role of lead professional:**

The Named Person role will be in place for every child and will be undertaken by an individual in universal services, i.e. health or education. Their role will be to act as the point of contact for children/young people and families, and for others. They should be in a position to provide or access information, advice and support for children and young people from within their own service; and, when necessary, to request support from other services or agencies. In practice we expect the Named Person to initiate and manage single agency Child's Plans within their own service.

Where concerns about wellbeing require coordinated intervention from more than one service or agency, then a Lead Professional will be identified to take on that coordinating role. The Named Person will either take on the role of Lead Professional themselves, or will agree with the partners involved in supporting the child/young person, who else should most appropriately take on the role of Lead Professional to manage the multi-agency Child's Plan. The Lead Professional may

be drawn from any of the services or agencies who are partners to the Child's Plan. Detailed guidance will set out examples to aid practitioners.

The choice of Lead Professional will be dependent on the needs of the child and the interventions and outcomes identified within the Child's Plan. For example, where there are a range of concerns about the wellbeing of a teenager, but no significant concerns in relation to one particular area, then the Named Person in the school who knows the pupil well and has regular contact, may be the most appropriate person to take on the role of Lead Professional. In other cases, where the wellbeing concerns focus on family life and safety, it may be clear that a social worker should take on the lead role. If the partners to the plan cannot agree who is best placed to take on the role of Lead Professional, the Local Authority and Health Board will have a dispute resolution procedure in place to provide a resolution. Further details of when it would be appropriate for a Named Person to take on the role of a Lead Professional will be included in the statutory guidance for the Bill.

**iv) The ability of children and young people to have input into who is assigned as their named person:**

A key principle of the GIRFEC approach and the role of the Named Person is the fostering and maintenance of good working relationships with children and families. A child or young person will initially be allocated a Named Person. As with current procedures governing professional client relationships, where the relationship between a child or family and the Named Person becomes an obstacle to supporting the child's wellbeing, other arrangements can be put in place. This may involve identifying a key member of staff within the school who will work directly with the child or family, and support the Named Person, or it may be agreed that another appropriate member of the staff team should take on the Named Person role. These decisions will be made with the wellbeing of the child as the main consideration.

Most children and families value the support they receive from universal services, including the Health Visitor and school. However some children and/or families choose not to seek support, or do not engage with the support on offer. Decisions regarding the support needed by a child will be based on an assessment of their wellbeing and will include the views of the child and parents.

**v) The extent to which the Named Person would be expected to be involved with children and young persons for whom no support or intervention is required:**

The majority of children and young people will not require any additional support from their Named Person. The majority of children receive the support they need from their families, and from the routine involvement of universal services through engagement with health services and attendance at school. Where there are no concerns about wellbeing, support will continue to be offered through the usual universal services. That means that the Named Person, in the role of Health Visitor or Head teacher for example, will have no involvement beyond the routine provision of their health and education functions.

**115. Concerns were expressed to us and the Finance Committee which cast doubt on the potential savings for health boards from the named person role. We note that this is, at least in part, due to a lack of real-world experience on which to base the financial assumptions. In view of this, we consider that further resource may be required for health boards to implement GIRFEC, and we recommend that the Scottish Government be prepared to make such support available where appropriate.**

and

**116. We also acknowledge the concerns about the capacity of health visitors and the numbers required to deliver the requirements in the Bill. This indicates to us that there are wider issues about health visitor numbers. The Scottish Government should therefore explain how it will ensure that the demands placed on health visitors across the entire policy landscape will be met.**

There will be an impact on Midwife and Health Visitor resources as a result of the Bill. The Financial Memorandum sets out estimates in relation to training and capacity costs of this over and above what is already being done by these professionals.

In recognition of the impact of the Bill on the children's nursing workforce and the need to focus on the early years the Scottish Government is undertaking work to refocus and clarify the role of Health Visitor. This will contribute to evidence-based guidance to support consistency of service delivery. There is also work underway to review caseload size for Health Visitors and develop a caseload weighting tool. This work is expected to be complete by 2014. It will also explore core training and development needs for new Health Visitors along with competencies required by the current workforce to deliver on the provisions of the Bill and the GIRFEC policy.

The Scottish Government is working with Health Boards to support them to develop the workforce through national guidance and training to be ready for commencement of the GIRFEC provisions in the Bill. We are already aware that some Health Boards are investing in additional Health Visiting teams to support GIRFEC implementation. Health Visitor numbers have increased from 1139 in 2009 to 1316 in 2013. As of 30<sup>th</sup> June this year, Scotland compared favourably to England: with 4.1 whole time equivalent Health Visitors per 1000 population of children aged 0 to 4 compared to 2.6 whole time equivalent Health Visitors per 1000 children aged 0 to 4 in England.

**117. We are concerned about the operation of the named person role during school holidays. This is an area that requires further consideration by the Scottish Government and its local partners.**

All children in Scotland up to 18 years of age, or later if they are still in school, will have a Named Person (except for a small number in the regular forces where the Ministry of Defence has a duty of care). Otherwise, the Named Person service will be provided by the Health Board for children up to school age and by the Local

Authority after that. In cases where a child attends a grant-aided or independent school, the directing authority of the school is to make arrangements to provide the service.

During school holidays, the Local Authority will make arrangements for the provision of the Named Person service. The detailed arrangements are being left to Local Authorities to determine in the light of their local practices and procedures. The aim is for them to build on their current practices during the school holidays. For many, at the moment, someone is based centrally in the education service to be the point of contact. Emergency or child safety issues which arise will be dealt with immediately through local child protection procedures as at present with more routine enquires routed to existing help lines, or call centres.

For children who have a Child's Plan, there will be planning for holiday periods when the support of the school is not available. This will be done in advance and appropriate mechanisms put in place to provide the necessary level of support. The Scottish Government does not intend to require specific procedures to be adopted across the country preferring to leave this to local decision making. The same will be true of independent or grant-aided schools. The Local Authority's duty to provide the Named Person service applies until a child is 18 even if they leave school.

**118. Given Highland's experience of implementing GIRFEC, the Scottish Government should explain how the proposal to assign a named person for young people who have left school and are under the age of 18 will work.**

Those young people who have left school will typically have the skills and knowledge to express their views and reach decisions. Some will still require help and support – especially those with complex needs – and the Bill will ensure that appropriate arrangements are in place at Local Authority level for children who have left school before the age of 18. It will be the role of the Named Person in these circumstances to advise the young person and, where appropriate, link the young person into resources and support networks which currently exist for young people who have left school but need further assistance. The Named Person arrangements would form part of the 'Opportunities for All' support arrangements in place locally across Scotland.

**119. Finally, we note some views that the role of lead professional could usefully be included in the Bill. Whilst we understand the difficulties in legislating for the role, given that lead professionals may be employed from outside the public sector, we are concerned about the potential for confusion and lack of consistency in the way it will operate alongside the named person. We therefore recommend that the Scottish Government monitors the situation as these roles develop with a view to legislating for the lead professional in future, if necessary.**

The role of Lead Professional is not included in the Bill because we are looking to public bodies to establish the arrangements that best suit the needs of individual children. The Named Person role flows from the function of the universal services of health or education. The Lead Professional will be the person who is best placed

to support the child's needs and address any risk in a multi-agency context. This will not clearly fall to any one agency and they will not necessarily be located within health or education. What is important is that public bodies agree the arrangements and governance and make sure they work well. This is an area where guidance is more appropriate. The duty to cooperate provides a statutory backing to sort out protocols across agencies in a CPP to ensure local arrangements are agreed.

#### **Part 4 - Information Sharing**

**132. We recognise the concerns raised by witnesses and welcome the Minister's commitment to give further consideration to the information-sharing provisions in the Bill and, in particular, to "fully consider all views on sections 26 and 27". We expect any necessary safeguards to be introduced at Stage 2. We suggest that, in considering what revisions to bring forward, the Scottish Government engages with those who have raised concerns about the drafting with us.**

Proportionate, appropriate and timely information sharing is essential to ensuring our children are protected and kept safe from harm. The Bill aims to create the framework which is fair and proportionate.

Section 26, with its triple test, encourages practitioners to consider carefully what relevant information must be shared, when and with whom. If a practitioner, on the basis of the information known to them, and in light of their professional judgment, decides to share information and does so in a way that is considered fair and proportionate, then it is unlikely they will have action taken against them or their organisation even if it later transpires that such sharing was not appropriate because the information at the time was either incomplete or wrong. However, that may still not remove the anxiety of having action taken for breach of confidentiality.

Section 27, therefore, provides the reassurance that action will not be taken for breach of confidentiality if the requirements of Section 26 are met.

The Scottish Government is of the view that Sections 26 and 27 of the Bill do not breach the Data Protection Act 1998 (DPA) or the European Convention on Human Rights (ECHR). We are however aware of concerns raised, both in written and oral evidence, to the Committee and have been working closely with stakeholders to further understand and appreciate any anxieties they may have. Most concerns are based around the wording of Section 26 and the lack of appreciation that, while the Bill does not replicate the wording of the Data Protection Act 1998 DPA, all information shared will still fall within the DPA tests of proportionality, relevance and appropriateness. In addition, some witnesses expressed a concern that the duty of confidentiality will, in many cases, be overridden without any regard to the views of children. This is not the intention and this will be made clear in the statutory guidance.

To further explore and alleviate concerns a workshop specifically about confidentiality was held on 16<sup>th</sup> October 2013 with many of the concerned parties. We have also invited all of those concerned to work with us on the preparation of

statutory guidance. This has been welcomed, particularly during our discussions with LGBT Youth who relayed a number of scenarios that highlighted issues about current practice. They have agreed to work closely with us in producing specific guidance on LGBT issues and the appropriate and proportionate response by practitioners. They now see the Bill as providing an opportunity to set out clear statutory guidance, which will address many of the practice issues children with LGBT issues experience.

Our engagement process and listening to the views of stakeholders is continuing and will inform our approach to Stage 2 of the Bill process.

**133. We agree that training and guidance for professionals will be absolutely crucial in determining the effectiveness of the proposals. All relevant service providers, including from the private and third sectors, must receive training and guidance in order to ensure there is a consistent approach to information-sharing. It is vital that the training and guidance engenders a common understanding of what constitutes proportionate, necessary information sharing.**

We agree awareness raising and training across all sectors will be crucial in relation to all aspects of the Bill, the GIRFEC approach, the application of UNCRC principles, and the need to ensure fair, proportionate and justified information sharing that is relevant to the wellbeing concerns for the child or young person.

The delivery of such training is primarily the responsibility of organisations within the CPPs. There is evidence that improved multi-agency working and joint awareness raising and training in implementation of the GIRFEC approach creates added benefits and understanding. We have been and are continuing to encourage such multi-agency training ensuring a consistency of approach across boundaries. Elements of the financial and advisory support for CPPs by the Scottish Government team have been focused on developing such an approach.

Nationally within the NHS, the Scottish Government is supporting initiatives in Lothian, Borders and Tayside to embed GIRFEC core components in maternity services through practice development and a revised governance framework. NHS Education for Scotland and Health Scotland ensure that the GIRFEC approach is fully integrated into new and reviewed guidance that impacts on children to ensure that there is practice development across the health service.

With support from the Scottish Government, Police Scotland has designed a training package for all officers which is currently being rolled out across the country and will be delivered to all front line staff by the end of March 2014. The purpose of this training is to increase awareness and improve the police response to concerns about children and vulnerable adults. We believe this training will support operational officers and supervisors to have a good understanding of the potential vulnerabilities of children and how best to safeguard and support their wellbeing.

Once CPPs have agreed their systems and practice changes to reflect their local priorities and procedures, these packages can be adapted for delivery. A good

example of this is the e-learning module developed by the Lothian and Borders CPP Grouping, which is being accessed by other CPP areas.

The Scottish Government and the Information Commissioner's Office (ICO) are undertaking presentations across the country to inform practitioners and managers of the impact of the ICO statement in the context of existing and emerging legislation. The Scottish Government team also reviews local guidance and practices when requested to ensure a consistency of approach is promoted. In particular, in collaboration with the ICO they have been working with Perth and Kinross CPP in producing information sharing guidance for all staff in relation to risks to wellbeing. The guidance is expected to be published later this month and will be hosted on the GIRFEC website as an exemplar. Other areas, including Fife and Lothian and Borders, have already expressed an interest in it and the aim is that all areas will be able to adopt it or adapt it for their own use. The Scottish Government continues to encourage all training of children's workforce staff to embrace the values and components of the Common Core Competencies, published in 2012 – (<http://www.scotland.gov.uk/Publications/2012/06/5565>), which have been founded on the UNCRC and GIRFEC. Use of the Common Core is supported and promoted by the Scottish Social Services Council. We also continue to work with Stirling University as part of their annual conference programme to enhance practitioners' understanding, most recently 11–12 November 2013, and to support the on-going development of their CPD module on GIRFEC. The Scottish Government team is also available to advise other institutions in developing programmes.

**135. The Scottish Government is working with various groups to update the Privacy Impact Assessment (PIA) that accompanies the Bill. Given its significance, we request the Scottish Government makes it available to us at the earliest opportunity.**

The updated Privacy Impact Assessment has been sent to the Education and Culture Committee and was published on the Scottish Government website on 20 November: <http://www.scotland.gov.uk/Resource/0043/00438388.pdf>

**137. We note the evidence we received in relation to electronic information sharing. Concerns about the ability of organisations to share information electronically were also raised with us during our inquiries this Session. We therefore urge the Scottish Government to consider what further support it can provide to public services to improve their ability to share information in relation to the Bill.**

The Scottish Government is developing a new health and care information sharing strategy in partnership with delivery agencies across Health, Local Authorities and the Third Sector. This will cover both services for adults and children and will be available for consultation in early 2014.

The Information Sharing Board (ISB) is leading on this and aims to enable improved information sharing and collaborative working, ensuring that there is minimum unnecessary duplication of effort. The ISB will fund local information sharing initiatives with a budget in excess of £1.5m in 2013-14 and £2m in 2014-15. It has just concluded a process associated with the release of this funding, with proposals

received from all 14 areas. To date, funding from the ISB has already seen successful projects such as AYRshare develop and be implemented, as well as portal pilot developments in Lothian and Greater Glasgow and Clyde. Established initiatives in Lanarkshire and West Lothian have been assisted to develop a 'proof of concept' enabling child alerts to be shared across boundaries.

What has become increasingly important to the further sharing of information is that data such as a child concern, a chronology or a Child's Plan is recorded and stored in a consistent manner and to that end national minimum data sets are being agreed. To support this the Scottish Government GIRFEC Team and eHealth are working with the Lothian and Borders area to test these data sets, explore all options to share information electronically to support GIRFEC and to produce a detailed generic 'check list' to be considered by all areas considering ICT support for GIRFEC implementation. The project will further expand the 'GIRFEC Business Requirements for Electronic Information Sharing' produced in partnership with stakeholders in 2012 and will provide valuable national learning.

## **Part 5 - Child's Plan**

**143. We recommend that the Scottish Government ensures the child's plan can be produced in such a way as to allow the easy incorporation of other statutory requirements.**

The intention is not to alter the specific statutory duties to prepare a Coordinated Support Plan (CSP) or a plan for a Looked After Child. These other plans should be considered as contributing to a broader framework of support for the wellbeing of the individual child or young person.

Much of the detail of what should be included in the Child's Plan will be set out in subordinate legislation and in statutory guidance. These will also make clear the relationship between the Child's Plan and the other statutory planning mechanisms. The Code of Practice which supports the legislation governing Additional Support for Learning allows for the CSP to be incorporated within a Child's Plan, and this is already practice within Highland CPP.

**144. We also recommend the Scottish Government considers the suggestions made in evidence to us calling for the inclusion in the Bill of a mechanism to resolve disputes in relation to a child's plans, and for children and young people's views to be taken into account in developing child's plans.**

The child's and/or parents' views should be considered and valued throughout the process of development of the child's plan. However, at times it may prove difficult to achieve consensus.

Disputes between professionals should be resolved locally whenever possible using existing Health Board and Local Authority dispute resolution procedures. Guidance will set out the need to have these in place and the requirement that they are visible and accessible to children and parents.

If disputes cannot be resolved locally, we want redress for children/young people and families to be accessible, clear and quick. We are considering whether there is a need for further bespoke redress, which may or may not require legislation. However, it is important to consider existing complaints mechanisms, such as provided by the Scottish Public Services Ombudsman, and those of Local Authorities which are being considered under the Scottish Government's review of social work complaints procedures, so that we do not add unnecessary complexity to the public complaints landscape. Work is therefore on-going on this matter.

## **Part 6 - Early Learning and Childcare**

**158. We note that early years intervention is generally regarded as being of crucial importance to a child's development and we support its proposed expansion. We also support the general desirability of continuing to expand this to two year olds as quickly as possible.**

and

**159. We welcome the Bill as a first step in the expansion of early learning and childcare, although a minority of us would like the Bill to go further.**

The Scottish Government is aware that a number of organisations would like to see the Early Learning and Childcare provisions extended more widely to 2 year olds, particularly those living in poverty or disadvantage.

The Scottish Government is clear that we want significant changes which are achievable, manageable and sustainable, and we will not compromise on quality in order to ensure we actually improve outcomes for our children, especially our most vulnerable 2 year olds. All the research shows that what makes a difference to those children who are more disadvantaged is that the provision needs to be high quality. Research shows that while all social groups benefit from high quality pre-school provision, children from the poorest families gain most from universal provision of Early Learning and Childcare. Open to all, mixed provision can have the biggest impact and protects against early segregation, and that needs to be the way we go forward more broadly in the longer term. Our priority at this stage is therefore to build additional hours and flexibility into our high quality universal provision.

Where we do extend to 2 year olds, we want to make a difference. We know that looked after children have the poorest outcomes of any group of children; and the priority is that the guarantee of provision for this group, and for those under a kinship care order where this can be an alternative to a child being looked after, will make a difference for those children. That is why the Bill allows for individualised or alternative arrangements for looked after 2 year olds based on assessment and family circumstances; and, can include work with parents and carers in a range of settings including the home, with the aim of ensuring we really do make a difference.

We have also been clear that our aim is to develop a wider system of high quality Early Learning and Childcare that meets the needs of all children, parents and families, focusing initially on those most in need. The Bill is designed to allow for

changes to eligibility and number of hours through secondary legislation. The Bill also introduces a new concept of *Early Learning and Childcare* in order to remove an artificial divide between pre-school education and childcare. This will enable more holistic and integrated provision which supports learning and development in caring and nurturing environments for all young children which can encompass any further expansion.

We are aware that the Department of Education in England has embarked on extending its provision to 20% of disadvantaged 2 year olds this year, increasing to 40% in 2014; but, we are also aware of consistent and sustained concerns expressed by key stakeholders about the resources and capacity to implement this commitment and ensure the necessary quality that will have a positive impact on outcomes for young children.

Our absolute priority is to ensure that the provision we are offering is high quality and sustainable. The Committee heard on 17 September from COSLA, the National Day Nurseries Association (NDNA) and the University of Strathclyde that quality is paramount, particularly for the most vulnerable two year olds who need provision which is flexible and appropriate to their needs, and the importance of getting it right before rolling out provision and increasing numbers further.

**160. Whilst we accept local authorities will need some time to ascertain the level of need locally, we urge the Scottish Government and COSLA to work to ensure that flexible arrangements are made available as quickly as possible to enable families to take advantage of the new provision.**

Moving to a more flexible model of Early Learning and Childcare, whilst maintaining quality, is a priority for the Scottish Government.

Flexibility means moving away from what has been a default model of provision of 2.5 hours per day, to providing models of provision that support a range of needs for parents including to support parents who are employed, training or studying. Those models will be defined by Local Authorities in consultation with local populations of parents; and, consultation will enable Local Authorities to access a range of views, from different areas to groups of parents with different needs.

The Bill requires consultation every 2 years, with published plans in response to identified needs. This is intended to build momentum into the changes that will be required over the next few years. The Financial Memorandum estimates the budget increasing incrementally year on year to enable Local Authorities to build in new patterns and choice, including models that may be more expensive. Therefore we would expect to see year on year incremental changes to early learning and childcare. We believe this provides the necessary pace and resources, without requiring the introduction of a range of choices from day one which would be necessarily limited and not necessarily what parents want.

**161. We note the suggestion some nurseries are underfunded. We emphasise that the increase in supported hours of early learning and childcare must not have a detrimental effect on the quality of the service that is provided, or the sustainability of provision in the voluntary and private sectors.**

The contribution of high quality and sustainable partner providers is a crucial element of funded Early Learning and Childcare provision. The duty to secure Early Learning and Childcare will remain with Local Authorities; and, it will remain their responsibility to agree with their partner providers, fair settlements locally for delivery of Early Learning and Childcare places.

The Financial Memorandum estimates the full costs of the additional 125 hours for 3 and 4 year olds and the costs for the most vulnerable 2 year olds. The draft budget for 2014/15 and 2015/16 has included those costs in full. There is therefore no reason for Local Authorities to underfund partner providers on the basis of this increase in hours or additional funding.

We will continue to work with local authorities and NDNA to promote good local working relationships and transparency of funding arrangements. Both the Association of Directors of Education in Scotland (ADES) and NDNA are members of the Early Years Policy Delivery Group which is developing draft statutory guidance to support implementation of the Early Learning and Childcare legislative proposals, which will cover this issue. More immediately, we will encourage further discussion of this issue through a Scottish Government and ADES national implementation conference this November.

**162. On a related point, we heard calls for the Bill to revise the point at which children's entitlement to supported childcare would begin. Currently, children are entitled to use the service from the start of the school term following their third birthday. It has been suggested this system is unfair in that the amount of childcare to which children are entitled depends on when their birthday falls. We wrote to the Scottish Government asking it to respond to those concerns and asking whether it intended to take any further action on the matter. The Government confirmed its policy intention was for the current entitlement to continue. It also stated that it encouraged local authorities to commence early learning and childcare closer to the child's third birthday where they have capacity to do so. We invite the Scottish Government to provide further explanation of why it is not appropriate for the Bill to include measures on this matter.**

The priority for the Scottish Government at this stage is to build additional hours and flexibility into our high quality universal provision, increasing the entitlement to around 16 hours a week, and building flexibility into the system. This is a significant change and reconfiguring the system of Early Learning and Childcare must be achievable, manageable and sustainable. Secondary legislation will also allow for future flexibility should Ministers decide to make further changes to commencement and eligibility.

Local Authorities can and do deliver provision beyond the minimum number of hours and minimum eligible children. A number of Local Authorities therefore already start children from their 3<sup>rd</sup> birthday, or the month after their 3<sup>rd</sup> birthday. We welcome and encourage those arrangements to start closer to the child's 3<sup>rd</sup> birthday where Local Authorities have the capacity to do so as this supports longer term aims to increase and expand Early Learning and Childcare for all children, parents and families.

The commencement dates for eligibility will be set through secondary legislation, and it is the intention to continue commencement for 3 year olds from the first term after their third birthday. There is also an intention to continue the entitlement for the youngest children who may receive only one term in their first year of Early Learning and Childcare (usually those born in January or February who start in the Spring term just before Summer) to an additional year of Early Learning and Childcare where their parents chose. This would allow parents to defer entry to school for an additional year, enabling the child to start school when they are closer to 5½ years old. Some slight variation will always remain whether children commence from their birthday or the first term after their birthday, but this system currently makes the best use of the entitlement in relation to the child's age and needs.

### **Part 7 - Corporate Parenting**

**169. We note the evidence received indicating that several organisations do not agree with their inclusion on the list of corporate parents. This risks diluting the concept of corporate parenting. In the absence of specific criteria, we seek further clarification from the Scottish Government about the reasoning underpinning the decisions to identify those with corporate parenting responsibilities.**

The organisations listed in Schedule 3 as Corporate Parents includes the wide range of public sector bodies that are in any way involved in delivering services, providing support or in making decisions about the lives of children and young people in care and their families. This list inevitably captures a broad list of organisations; some of which are involved in the day to day aspects of planning and delivering key services while some are less frontline. Much of what we are asking new Corporate Parents to do is within the range of activities and reporting obligations they have already. Many bodies already commit themselves to supporting children and young people in care and care leavers. As such, I am satisfied that the organisations listed in schedule 3 will be more than capable of meeting their responsibilities as Corporate Parents.

The Scottish Government has maintained a dialogue throughout the development of the Bill with organisations across the sector as part of our consideration of the list of corporate parents. We will continue that dialogue, keep the list under review and will consider making changes to it if necessary. The Committee will also be aware that there is a power in Section 50(2) of the Bill for Scottish Ministers to, by order subject to affirmative procedure, modify Schedule 3 by adding, removing or varying entries listed in it if it is thought appropriate to amend the list in light of experience after the Bill provisions come into effect.

## **Part 8 - Aftercare**

**178. We acknowledge the evidence that we heard from Who Cares? Scotland and others and invite the Government to respond to their suggestions that the Bill should include a right for care-leavers to return to care up to the age of 26; allow young people who have spent time in care, but are not in care at school-leaving age, to be eligible for aftercare; and include a mechanism enabling care leavers to appeal against decisions taken about the level of care they receive.**

The Children (Scotland) Act 1995 sets out the responsibilities for Local Authorities in respect of young people leaving care. There is a statutory duty on each Local Authority to carry out an assessment of the needs of young people over school age leaving their care, whether they be persons to whom they owe a duty under Section 29(1) of the 1995 Act or persons who make an application to them to request advice, guidance and assistance under Section 29(2).

The Scottish Government acknowledges the principle of returning to care as a positive step in improving outcomes for care leavers. However, careful consideration needs to be given to the implications of care leavers having a right to return to care up to the age of 26 before that could be put in place and we have maintained a regular and detailed dialogue with the sector to further consider. We are agreed that care and support should always be about preparing young people to live independently and the transition from care to independent living is one that must be fully supported according to the individual needs of each care leaver and at a time and pace that suits their individual needs. In the meantime, the Scottish Government is considering a number of proposals including those mentioned above and will consider making any necessary changes to support the transition from care to independent living.

The Looked After Children Strategic Implementation Group – Throughcare and Aftercare hub, recently published 'Staying Put - Scotland', to support practitioners in extending the transition to independent living, maintaining relationships between young people leaving care and their carers and supporting staying in a care placement as long as possible and until a time when the young person is prepared and ready to sustain independent living. Work with stakeholders will continue over the coming year to engage them with the guidance and offer support to build on existing good practice.

In relation to a mechanism for appeals, regulations 16 to 20 of the Supporting Young People Leaving Care (Scotland) Regulations, 2003 set out existing rights of appeal for persons mentioned in Section 29(1) or (2) of the 1995 Act against decisions of the Local Authority either not to provide advice, guidance and assistance under Section 29(2) or in relation to the level or nature of advice, guidance and assistance to be provided under Section 29(1) or (2). A young person also has a right to make a complaint to the Local Authority about the service they have received or how an appeal has been handled. A complaint of this nature should currently be made

under the Social Work (Scotland) Act 1968 or any other appropriate complaints procedure.

Section 60 of the Bill amends Section 29(6) of the 1995 Act to ensure that Local Authorities need to establish procedures for considering representations (including complaints) by persons in mentioned in Section 29(1) or (2) about the discharge of their functions under the provisions of subsection (1) up to and including their functions in new subsections (5A) and (5B) of Section 29. As such, the Scottish Government will, following the Bill's passage, be considering these existing appeal rights to assess whether any amendments need to be made to them by way of secondary legislation in consequence of the provision in Section 60 of the Bill.

### **Part 9 – Counselling Services**

**185. We note the calls for further information on the measures to be provided and request that the Scottish Government provides such information as early as possible.**

The Counselling services provisions in Part 9 of the Bill will place a duty on Local Authorities to ensure that families in the early stages of distress who seek help are provided with appropriate forms of intervention. The order, which will be made under these Bill provisions, will make it clear that the eligibility test for the counselling services will be where a child is at risk of becoming looked after or where the child's wellbeing would be at risk of being impaired if the counselling services are not provided. Circumstances and appropriate supports will vary from child to child, and may change over time.

An order made under these Bill provisions will also specify the description of counselling services which Local Authorities are to make available to families where there is a child at risk of becoming looked after or where the child's wellbeing is at risk of being impaired, if the services are not provided. Such assistance is likely to include:

- Family therapy or support services;
- Addiction therapy or support services;
- Substance misuse therapy or support services;
- Mental health counselling or support services;
- Attachment/parenting/behavioural counselling or support services; and
- Bereavement and grief counselling or support services.

Therefore, this provision could cover a very wide and evolving range of services which will require to be amended and updated to meet practice over time, which would not be possible to do if the services were specified on the face of the Bill.

**186. We agree with the recommendation of the Delegated Powers and Law Reform Committee that, due to the significance of eligibility for these matters, the affirmative procedure should apply rather than the negative procedure.**

As detailed in our response to the Delegated Powers and Law Reform Committee on 11 November 2013, the Scottish Government agrees that this would be a sensible approach and intends putting forward an amendment at Stage 2 to change the order making power to affirmative.

### **Part 10 - Kinship Care**

**211. We therefore welcome the Scottish Government's work in engaging with stakeholders, including local authorities and groups representing kinship carers, on the contents of the regulations and ask the Government to reassure kinship carers about the level of support they can expect to receive under the new arrangements.**

The Scottish Government has conducted comprehensive consultation and engagement with kinship carers and key stakeholders throughout the Bill process. This consultation will continue as we develop secondary legislation under the Kinship Care Order Bill provisions to ensure that both kinship carers and the children in their care, where they are eligible, will be fully supported under a Kinship Care Order.

The level of support or assistance which will be provided by Local Authorities will vary on a case by case basis, depending on the individual circumstances of the family and the child/children concerned. It is anticipated that support will include:

- A start-up grant (for example where the child moves to live with the family following a kinship care order being obtained);
- Transitional support for 3 years, where a child moves from formal kinship care arrangements (or from being looked after) to informal kinship care, where a qualifying person has obtained a kinship care order. This will ensure that families will not be any worse off financially or otherwise at the point of transition (e.g. a carer would seek financial support from the UK benefits system and the Local Authority would then provide a top-up allowance to the level received under the previous formal arrangements). After the 3 year transitional period the level of support and or assistance provided will be dependent on the individual needs of the family; and
- Access to Early Learning and Childcare for all 2 year olds that are subject to a kinship care order (although this will not be dependent on individual family circumstances).

**212. The Scottish Government Financial Review of kinship care expects to report by the end of 2013. We will consider its findings in due course. The Government should ensure the findings can be easily integrated into the regulations being developed under the Bill.**

The Kinship Care financial review is being conducted independently of the Children and Young People (Scotland) Bill. The review aims to reduce the complexity and

inconsistencies in the system of kinship allowances. We agree that any changes to the system of allowances should be complementary to the Kinship Care Order proposals and reflect past learning about how allowances interact with the benefits system. Any legislative change required as a result of the findings from the review group will be dealt with through secondary legislation, most likely by amendment to the Looked After Children (Scotland) Regulations 2009. We will ensure the Committee is kept informed of progress.

**213. We invite the Scottish Government to provide details of the action it is taking to ensure that payments under the kinship care order will be disregarded as income in terms of the benefits system. We would be concerned if such support was not disregarded in this way and urge the Scottish Government to work closely with the relevant UK Government departments on the development of the regulations under this Part, to ensure clarity about what kinship carers can and cannot expect to receive.**

The Scottish Government has pursued the UK Government for some time to financially support kinship carers through the UK welfare system and to recognise them for their parenting role. In pursuit of this we have had on-going dialogue with the Department for Work and Pensions and HM Revenue and Customs for some time with the result of securing concessions 'benefit disregards' for kinship carers.

It is however necessary that our secondary legislation is defined before UK Government departments can confirm how they will treat any entitlements. In designing the Kinship Care Order therefore, we have considered past learning on this policy area and will ensure we continue to work closely with the UK Government.

The interaction between kinship carers and the benefits system is very complex. To assist discussions with UK Government, the Scottish Government has, and will continue to, work with organisations such as Citizens Advice Scotland and the Child Poverty Action Group to gain a better understanding of the complexities kinship carers face. We are committed to supporting kinship carers to maximise take-up of their entitlements.

### **Part 11 - Adoption Register**

**219. We support the aim of enabling more children, particularly those who are looked after, to be matched with suitable adopted families without having to experience delays. We consider the compulsory nature of the Register will mean the remainder of local authorities and adoption agencies will join the Register, thereby increasing the chances of a suitable match.**

**220. However, we note the concerns raised in evidence by, for example, the British Association for Adoption and Fostering and invite the Scottish Government to respond to these points.**

The Scottish Government is clear that the National Adoption Register must be designed and built to help find the maximum number of opportunities for every child for whom adoption is in their best interest. If a child cannot be matched locally, it is important to ensure that there is no unnecessary drift and delay in a child being

potentially matched to adopters outside the Local Authority. This means every adoption agency must refer both children and approved adopters in a timely way to ensure that the Register can operate as effectively as possible.

The Scottish Government has been liaising with the British Association for Adoption and Fostering (BAAF) about their concerns on the Adoption Register provisions, in particular those relating to the insertion of the new Section 13C(2)(a)(i) and (ii) of the Adoption and Children (Scotland) Act 2007. These provide that an adoption agency is not to disclose for inclusion in the Register information about a child without the consent of either the birth parent or any person who has parental responsibilities or parental rights for the child, or such other person as may be prescribed in regulations.

We note BAAF's concerns regarding circumstances where the consent of parents or persons with parental rights and responsibilities is not forthcoming. We are actively considering this issue and exploring ways in which this matter could be addressed in the Bill.

We also note the concerns raised by BAAF in relation to the access of prospective adopters to the information held by the Register, including the Scottish Children in Waiting publication. Whilst Section 13A(3) provides that the Register should not be open to public inspection or search, the regulation making power in Section 13D(2)(b) allows Regulations to be made which authorise the Scottish Ministers or a registration organisation to disclose information derived from the Register to any person specified in the Regulations for any purpose relating to adoption, amongst other things and this power may be used to ensure that the information from the Register can be shared with prospective adopters to increase the effectiveness of the Register.

I hope the Committee finds this response to their Stage 1 report helpful. I look forward to continued working with the Committee as the Bill progresses through the Parliamentary Process.

**Aileen Campbell**

