

# ***Proposed Disabled Children and Young People (Transitions)(Scotland) Bill***

*A draft proposal for a Bill to improve the outcomes for children and young people with a disability in the transition to adulthood, by requiring the Scottish Government to implement a national strategy, and by requiring local authorities to prepare and deliver a transition plan for each disabled child.*

**Consultation by Johann Lamont MSP**

**Lodged: 9 October 2019**

**Consultation period: 10 October 2019 to 22 January 2020**

## Foreword

Empowering and supporting young people with a disability in the transition to adulthood is something I care deeply about; getting it right means people playing a full part in their local community, opening up employment opportunities and creating a fairer society.

This consultation document sets out the case for introducing statutory duties to ensure that a higher proportion of disabled children and young people have positive transitions which help them to access their rights, fulfil their ambitions and make the most of their lives. The consultation seeks your views on whether or not you believe these proposed new legal duties will make a positive difference to the lives of disabled children and young people.

At age 16, the aspirations of disabled and non-disabled young people are broadly the same. By 26, however, disabled people are more likely to be out of work than their non-disabled peers, and are three times more likely to feel hopeless and to agree that “Whatever I do has no real effect on what happens to me”. Young disabled people deserve the chance and support to realise their dreams.

The key provisions of the proposed Bill are as follows:

1. The Bill would require the Scottish Government to introduce a national transitions strategy to improve outcomes for children and young people with a disability in the transition to adulthood;
2. The Bill would require the Scottish Government to appoint a Minister with special responsibility for transitions; and
3. The Bill would require local authorities to introduce a transitions plan to ensure each child and young person with a disability receives appropriate care and support before, and during, the transition to adulthood.

I would like to thank Camphill Scotland and Inclusion Scotland for their help in developing this consultation. These organisations, along with others in the third sector, have led the way in campaigning for the rights of young people with disabilities.

Before my proposal is considered for the parliamentary process, I am keen for as many voices as possible to be heard during the consultation. I believe a cross section of opinion will better assist me in drafting the best possible legislation.

I hope you will be able to take part in this consultation and share your thoughts with me on how we might achieve greater improvements for young people with disabilities as they move into adulthood.

Johann Lamont MSP

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## 1. How the Consultation Process Works

This consultation is being launched in connection with a draft proposal which I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website at:

<https://parliament.scot/parliamentarybusiness/17797.aspx>

At the end of the consultation period, all the responses will be analysed. I then expect to lodge a final proposal in the Parliament along with a summary of those responses which would be published on the Parliament's website. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties or groups represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill. A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy. Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me at:

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Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website ([www.parliament.scot](http://www.parliament.scot)) under Parliamentary Business / Bills / Proposals for Members' Bills.

## 2. Aims of the proposed Bill

The draft Disabled Children and Young People (Transitions)(Scotland) Bill aims to place statutory duties on the Scottish Ministers to introduce a National Transitions Strategy, and to assign to a member of the Scottish Government, or to a junior Scottish Minister, special responsibility in relation to the exercise of their functions under this Act. The Disabled Children and Young People (Transitions)(Scotland) Bill also aims to give additional rights to support to disabled children and young people by placing a statutory duty on local authorities to prepare and introduce a transitions plan for each disabled child/young person within the local authority area to improve outcomes in their transition to adulthood.

The Bill would also create a statutory right to support in transition planning for disabled children and young people and their families.

At present although every child is entitled to a Child's Plan (under the Children and Young People's Act 2014) there is no statutory requirement to put in place an ongoing and fully supported transitions plans for disabled children and young people in their transition to adulthood. Nor do young disabled people have a right to ongoing support with their transition to adulthood after they have left school. As a result, the transitions for many disabled children and young people are often extremely challenging, and consistently deliver poor outcomes for the children and young people. To put this in perspective, one in ten Scots children and young people (over 100,000, aged 0 – 18) have a long term limiting health condition or impairment.

Therefore, poor transition planning could affect over 5,000 disabled school leavers each year<sup>i</sup>. This can have a devastating impact upon their lives.

This consultation document sets out the case for introducing statutory rights and duties in the above areas to ensure that a higher proportion of disabled children and young people have positive transitions which help them to access their rights, to fulfil their ambitions, and to make the most of their lives.

This Bill proposes giving a right to a Transitions Plan to every child or young person with an impairment or long term health condition. The Transitions Plan would be offered to disabled children and young people from age 14 until their 26<sup>th</sup> birthday. Where a Child's Plan is already available for the young person this would be incorporated into the Transitions Plan.

The Local Authority where the child or young person lives would be responsible for offering the Transitions Plan, and for working with the young person and their family/carers to implement it. The Local Authority would also be responsible for identifying a Lead Professional, in line with GIRFEC. They would work in partnership with the child/young person/family to assist the young person in carrying out an assessment; formulating the Transitions Plan; keeping the Plan on track and organising reviews of progress.

The Transitions Plan would belong to the child or young person. They, and where appropriate their parents/carers, would co-produce the plan with a lead professional. The transitions assessment undertaken by the Lead Professional would consider each of the Wellbeing indicators set out in Part 18 of the Children and Young People (Scotland) Act 2014.

The Transitions Plan should, therefore, consider all of the relevant aspects of a child's/young person's life including, but not limited to plans to, enhance opportunities including education, employment, training, health, financial affairs, housing, leisure, citizenship and independent living.

The consultation seeks your views on whether or not you believe these proposed new legal duties will make a positive difference to the lives of disabled children and young people.

### **3. Background**

#### **Why is the Disabled Children and Young People (Transitions)(Scotland) Bill necessary?**

It is widely accepted that there are key points in children's and young people's lives where intervention can lead to more positive outcomes later. There has, rightfully, been a focus by the Scottish Government on investing in pre-school interventions and childcare to eliminate or mitigate Adverse Childhood Experiences (ACEs). However, the early years are not the only crucial phase in a child's or young person's life. A young person who leaves school only to experience long-term unemployment is also more likely to have poorer physical and mental health, and a shorter life expectancy. Furthermore, a young person who has no work experience by age 25 is unlikely to be an attractive prospect to an employer, and thus temporary unemployment can become permanent worklessness.

This crucial period of a young disabled person's life is often called a transition. Transition is not an event but "an ongoing process that involves moving from one context and set of interpersonal relationships to another to another"<sup>1</sup>. Transition has been defined as "a purposeful, planned process that addresses the medical, psychosocial and educational/vocational needs of adolescents and young adults with chronic physical and medical conditions (to which we would add intellectual and sensory impairments) as they move from child-centred to adult-oriented health care system"<sup>2</sup>. It would also include the move from school into the adult world of work and/or further or higher education. However the transition<sup>3</sup> between being a child at school and an adult participating in economic life simply never occurs for far too many disabled children and young people. This Bill seeks to address that issue.

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<sup>1</sup> Prof Jindal-Snape, 2010, 2016

<sup>2</sup> Blum RW, Garell D, Hodgman CH, et al. Transition from child-centered to adult health-care systems for adolescents with chronic conditions. A position paper of the Society for Adolescent Medicine. *J Adolesc Health* 1993; 14(7): 570–576.

The current lack of a statutory requirement to ensure children and young people with a disability are fully supported in the transition to adulthood is having a major negative impact upon the lives of many of these children and young people. Without ongoing and fully supported transitions plans large numbers of disabled children and young people are being deprived of opportunities to fulfil their potential, and to make the most of their lives. It is not only they who are being robbed of their potential, but we as a society who are being robbed of the contribution that they desperately want to make.

Introducing Transitions Plans through this legislation will help to ensure that the opportunities available to disabled children and young people to access, for example, employment, training and educational opportunities are significantly increased. These plans will provide that appropriate planning is put in place to ensure that each disabled child and young person is able to access such opportunities, and to achieve a positive destination.

Under the proposed legislation disabled children and young people will have a right to be at the centre of developing their own transitions plans. This will help to ensure that these plans meet the aspirations of the individual disabled child or young person in their transition to adulthood.

Such transitions can present many issues for disabled children and young people and their families. Getting the planning right will increase the chances that disabled children and young people will be able to secure positive outcomes throughout this transition, and into their adult lives.

The National Transitions Strategy will provide an overarching framework in which local authorities, NHS Health Boards, the Integration Joint Boards and other agencies can take action, including joint-action to deliver improved outcomes for disabled children and young people in the transition to adulthood, and into their adult lives. This strategy will afford a clear reference point to these agencies in terms of the aims and objectives, and outcomes, which the Scottish Ministers consider necessary to improve transitions for disabled children and young people. The strategy will help to shape and inform how these agencies can best work, including joint working, to significantly increase the life opportunities of disabled children and young people, and to support them in accessing their rights, fulfilling their potential and in making the most of their lives.

Having a National Transitions Strategy, and a bespoke Scottish Government Minister leading on transitions for disabled children and young people, are vital components of the framework which we believe is necessary to help to deliver significant improvements in the outcomes achieved by these children and young people. The National Transitions Strategy, and appointing a Minister with responsibility for transitions, will underline the priority being given by the Scottish Government to supporting disabled children and young people.

## What the evidence tells us

Evidence from a range of sources underlines the poor outcomes for many disabled children and young people in the transition to adulthood. This transition often presents many issues for children and young people across Scotland. The evidence suggests, however, that the issues faced by disabled children and young people are particularly challenging. This includes the lack of positive destinations in employment, training and education for large numbers of disabled children and young people when they reach adulthood as demonstrated by the evidence below.

## Hopes and Aspirations of Young Disabled People

At age 16, the aspirations of disabled and non-disabled young people are broadly the same. By 26, however, disabled people are more likely to be out of work than their non-disabled peers, and are three times more likely to feel hopeless and to agree that “Whatever I do has no real effect on what happens to me”<sup>4</sup>

What happens in the intervening years that acts to destroy young disabled people’s hopes and dreams? According to the hundreds of young disabled people Inclusion Scotland have spoken to about these issues, the loss of support from Children’s Services which occurs when they leave school hinders their chances of getting work or improving their employability.

Most recently, in December 2018, Inclusion Scotland organised a summit for young disabled people called “Activate”<sup>5</sup>. Many issues of concern to young disabled people were discussed but all the young people involved had concerns about transitions from school to adult life.

Young people at the Activate Summit talked about facing ‘an abyss’ when leaving school, and/or when moving from child to adult services. Some talked about difficult and stressful transitions with little support for future planning, a climate of low expectations particularly in relation to gaining employment, and a feeling of ‘falling off a cliff’ when more rigid eligibility criteria for adult services led to a sudden reduction in support. To quote some of the young disabled people involved –

**“Leaving school was really hard. It just felt like jumping off a cliff. Everything just stopped in terms of support and I have really struggled to find employment. I’ve had lots of interviews, but then the inevitable rejections. I’m volunteering now for three days a week, which is great, but I’m worried it won’t lead anywhere. I never felt I was supported to make any kind of plan for my future.”**

**“I got a lot of therapy when I was younger, which suddenly stopped when I became an adult.”**

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<sup>4</sup> “The Education and Employment of young disabled people: Frustrated ambition”, Tania Burchardt for JRF, 2005

<sup>5</sup> “A report about Activate: Scotland’s Disabled People’s Annual Summit”, Inclusion Scotland, 2019



**“I don’t think my careers adviser really expected me to find a job. I want to work in policy but there was no advice or encouragement, it has been really hard to find my way since I left school.”**

**“I want to be a teacher but because I am deaf and a BSL user, I’ve had so many negative reactions since leaving University and just can’t get the communication support I need to start a PGSE at college. It’s so frustrating.”**

The young disabled people at Activate called for: “ ....**a new statutory duty on local authorities across Scotland to adequately plan for and monitor outcomes for young disabled people....**”.

The proposed Disabled Children and Young People (Transitions)(Scotland) Bill seeks to improve outcomes for disabled children and young people, and to increase their life chances.

### **Disabled People and Worklessness**

The challenges facing young disabled people in securing work or improving their employability are significant. To put this in perspective, since the beginning of the recession in 2008 the proportion of working age, Scottish, disabled people in employment has fallen from **48.9% to 44%**. In comparison, the employment rate of non-disabled Scots people has recovered to over **81%**. So Scots disabled people are only slightly more than half as likely to be in work as non-disabled people. At a UK level the unemployment rate for disabled people was **9.3%** in July-September 2018. This compared to an unemployment rate of **3.7%** for non-disabled people.

Disabled people were also considerably more likely than non-disabled people to be “economically inactive”. While, the economic inactivity rate for disabled people was **44.4%**, the corresponding figure for non-disabled people was **16.1%**. People who are workless are more likely to have poorer health and lower life expectancy than those with meaningful and fulfilling work. On the other hand, according to the National Audit Office<sup>6</sup>, supporting a young disabled person into work can increase their income by between 55% to 95%, thus reducing the risk of poverty and poor health.

### **Attainment**

One of the key barriers that young disabled people seeking employment have to overcome is that the current education system tends to fail them. Children with Additional Support Needs (ASN) are six times (12%) as likely to leave school with no qualifications as children with no ASN (2%).

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<sup>6</sup> National Audit Office report ‘Oversight of special education for young people aged 16-25’, November 2011.

Only one in three (32%) of young people with an ASN leaves school with one or more SCQFs at Level 6 compared to two-thirds (65%) of those with no ASN. Having no, or far fewer, qualifications than their non-disabled peers puts young disabled people at a significant disadvantage in the modern labour market. There is no reasonable explanation as to why an individual with only sensory or physical impairment should not be attaining qualifications on an equal basis with their non-disabled classmates. However, the very fact that disabled people are less likely to end up in employment means that many teachers fail to see the relevance of their gaining qualifications leading to a failure of expectations.

One year after leaving school those with impairment related Additional Support Needs (ASN) are more than twice as likely to be unemployed/ workless (18%) as those with no ASN (8%).

Yet by age 19 things have not improved, but actually get worse as young people with impairments are three times as likely to be NEET (Not in Employment, Education or Training) than their non-disabled peers. By comparison vulnerable young care leavers are twice as likely to be NEET at age 19.

The problem this creates is that those with little or no work experience that they can put on a CV or job application are at a considerable disadvantage when applying for employment. Thus, early worklessness on leaving school that lasts for several years can all too easily become a permanent situation lasting throughout a disabled person's working life.

### **Conditionality and Sanctions**

Young disabled people are also more at risk of incurring sanctions under the UK social security system.

By way of further background, in 2012 a harsher conditionality regime was introduced for those claiming Job Seekers Allowance (JSA) whilst unemployed. The harsher conditionality resulted in more people being sanctioned (resulting in the loss of some or all of their benefit entitlement) for longer periods. The situation has not improved under Universal Credit (UC).

Amongst unemployed UC claimants, young men aged 16-24 are treated the most harshly, with one in seven (14%) under sanction over the most recent year<sup>7</sup>. Young women do not fare much better with 8% of 16-24 year old women under sanction. In comparison less than 3% of UC claimants aged over 50 are under a sanction. Research by Dr Ben Baumberg Geiger also shows that claimants with a disability are 26% to 53% more likely to be sanctioned than non-disabled claimants<sup>8</sup>.

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<sup>7</sup> Sanctions Statistics Briefing, Dr David Webster, May 2018

<sup>8</sup> "Benefits conditionality for disabled people: stylised facts from a review of international evidence and practice", Dr Ben Baumberg Geiger, *Journal of Poverty and Social Justice*, vol 25(2), June 2017, pp 107–128

Before the introduction of harsher conditionality (2010) 70% of young people entitled to JSA were claiming it. By 2016 this had fallen to 48%. Young people who are not registered as unemployed and claiming benefits are not in contact with, and cannot be contacted by, the Job Centre about training and work opportunities (such as Modern Apprenticeships). Nor can they be assisted with advice on job-search, career planning, etc.

If employability support for young disabled people is not being, or cannot be, provided through Job Centres then it is imperative that some other agency provides it.

The proposed Disabled Children and Young People (Transitions)(Scotland) Bill is vital to ensure that more young disabled people can secure positive destinations after leaving school.

### **Modern Apprenticeships**

Modern Apprenticeships are important in providing young people with new skills and work experience. Ninety percent of Modern Apprentices are retained in employment. Yet young disabled people, despite the barriers they face in finding work, were initially shut out of the Modern Apprenticeship programme rather than being the targets of additional support.

In 2012/13 of 25,691 Modern Apprenticeship starts only 63 (0.4%) were taken up by young people with a declared disability when they made up **12.5%** of all young people aged 16 -24. By Quarter 1 of 2017/18 this had improved to **9.2%** of Modern Apprenticeship starts self-identifying as having an impairment, health condition or learning difficulty.

This improvement demonstrates what can be done to improve labour market participation if a concerted effort is made to provide young disabled people with information and support. A key part of this should be the proposed Disabled Children and Young People (Transitions)(Scotland) Bill.

### **Financial implications**

We believe that the costs of providing ongoing support to young disabled people up to the age of 26 would be minimal, and can largely be met within existing resources. In this respect, not every young disabled school leaver will want or require ongoing support, e.g. those who enter employment (approximately 40%) or Higher Education (11%). In addition, those assisted to achieve ongoing positive destinations will also cease to utilise the support, while some of this group will already be entitled to such support as care leavers.

To put this in perspective, according to the Office for National Statistics around 29% of disabled 18-24 year olds are NEET meaning around 1,450 per year might seek additional support with their transition to adulthood – that is a few dozen per local authority.

By contrast, the financial costs of doing nothing are staggering. The National Audit Office state that supporting just a single young disabled person to achieve a good

transition and to live in semi-independent, rather than fully supported housing can, in addition to quality of life improvements, reduce lifetime costs to the public purse by £1 million<sup>9</sup>. Thus by spending a small amount preventing a young disabled person having a poor transition to adulthood hundreds of millions of pounds in future social care spending could potentially be saved.

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<sup>9</sup> Special educational needs and disability code of practice: 0 to 25 years, Dept. of Education and Dept. of Health, Jan. 2015

#### **4. Case studies**

The following anonymised case studies illustrate the significant benefits which can arise for young people in the transition to adulthood where that transition is carefully planned, as well as the poor outcomes that can result where the young person's transition is not planned for, or not planned appropriately. The two case studies below both relate to young people who have accessed care and support, and education, through the Camphill communities in Scotland.

##### **Case Study A**

Young Person A is now 18 years old and came to Camphill in 2012. The young person's family were finding it extremely difficult to look after him. The local authority gained full parental rights over him in 2013, as his family were no longer able to meet his needs. Young Person A's behaviour is very challenging, and difficult to manage. The young person's communication is very repetitive, and he seems to be largely incapable of meaningful communication. Having the open space and natural surroundings at a Camphill community has been helpful to him.

Young Person A had been placed at the Camphill community on an out of area basis by his local authority. The Educational Psychologist knew the Camphill community from the past. There was no dubiety over the fact that Young Person A has very significant needs, or over who was responsible for him (the local authority).

The local authority planned well in advance (a year ahead) for the transition from the Camphill community, and from education services. The young person's local authority found him a tenancy with a housing association in an area near the edge of a town, near a park so that Young Person A could see, and experience, the open spaces he enjoyed within the Camphill community. The local authority really took the lead in the planning process, which benefited the young person significantly. Young Person A requires 24 hour support on a two to one basis, which is provided by support workers on a shift basis. As part of the local authority's transitions planning these workers got to know Young Person A while he was still living in the Camphill community so he was familiar with, and comfortable with, them prior to making the move.

It was clearly needs-led. As part of the transitions planning for Young Person A the financial dimension would have been considered, but any discussions of that took place behind the scenes, and the decision making was evidently about what was best for Young Person A, based on his needs and what resources could be found to meet them.

Young Person A left the Camphill community, and returned to a placement within his local authority in July 2018. It has been a challenging transition, but the young person is still there and he is doing well. The local authority's transitions planning helped to make Young Person A's transition a successful one.

## Case Study B

Young Person B is an 18 year old man from a City local authority living in a Camphill community based in another City local authority. He is on the autistic spectrum, has a severe learning disability and is described as having very high needs. Young Person B's behaviour is difficult to manage – it involves a lot of climbing and running. Before coming to the Camphill community, the young person would climb out of windows, and onto the outside of tenement buildings, and also climb into neighbours' gardens. Young Person B is a very physically active, and extremely agile, person. He bangs objects as he seems to enjoy the noise this creates, and smashes windows for the same reason. There is a lot of open space at the Camphill community where he lives, which enables him to burn off some of his energy safely.

His placement with the Camphill community is due to finish in July 2019, and there is literally nothing planned for him. There was a review meeting in March 2019. About 10 minutes before the review was about to start, however, the social worker from his local authority phoned to say that he could not attend, that there was no funding for the placement to continue at the Camphill community, and that no other placements had been identified for Young Person B. Unfortunately, nothing has changed since March 2019, and now there is only 8 weeks to go before the young person is due to leave their Camphill community. The local authority has not explained why the social worker did not attend the review meeting. Furthermore, the local authority has also not explained why there are no transition plans in place for this young man. The family originally had to go to an education tribunal to get Young Person B his placement at the Camphill community, and they are very happy with his progress there.

The young person's family are very upset at the lack of planning from the local authority. They have expended so much energy, worry and financial resources to get this far. It is even more difficult for families that do not have these resources. This case study highlights the difficulties and challenges which can arise for vulnerable young people and their families when planning for their transition to adulthood is poor. Young Person B's long-term future is now very uncertain due to a lack of planning for this key transition in his life.

## **5. Key elements of the proposed Bill**

### **PART 1 - NATIONAL TRANSITIONS STRATEGY**

Section 1 of the proposed Disabled Children and Young People (Transitions)(Scotland) Bill places a statutory duty on the Scottish Ministers to prepare, publish and implement a strategy in relation to improving transitions for children and young people with a disability.

Section 1(2) of the Bill states that the National Transitions Strategy must set out the following:

- (a) the aims and objectives, and outcomes, which the Scottish Ministers consider necessary to improve transitions for children and young people with a disability;
- (b) the actions which the Scottish Ministers will take to meet the aims and objectives of the National Transitions Strategy;
- (c) the actions and arrangements which local authorities, NHS Health Boards, Integration Joint Boards and other bodies or persons must take, or put in place, to meet the aims and objectives of the National Transitions Strategy;
- (d) information about the support and assistance which will be available to children and young people with a disability before, and during, the transition to adulthood; and
- (e) such other matters as the Scottish Ministers consider relevant to transitions for children with a disability.

The Scottish Ministers have a duty in Section 1(3) to consult on the draft National Transitions Strategy, and to take into account any views and information received by them through the consultation. Section 1(4) outlines the groups which the Scottish Ministers must consult about the draft strategy.

Section 2 of the Bill places a duty on the Scottish Ministers, local authorities, NHS Health Boards, Integration Joint Boards and such other persons as the Scottish Ministers may prescribe by order or by regulations to comply with the National Transitions Strategy in exercising their functions under this Act.

The arrangements for the review of the National Transitions Strategy are outlined in Section 3 of the Bill.

Section 4 of the Bill places a duty on the Scottish Ministers to assign to a member of the Scottish Government, or to a junior Scottish Minister, special responsibility in relation to the exercise of their functions under this Act.

The Scottish Ministers have a duty, under Section 5 of the Bill, to publish an annual report on the progress made by the National Transitions Strategy in improving transitions for children and young people with a disability in that year.

### **PART 2 – TRANSITION PLANS**

Section 6(1) of the Bill places a duty on local authorities to prepare and introduce a transitions plan for each child with a disability within the local authority area to improve outcomes for each child and young person with a disability within the local authority area in the transition to adulthood.

Section 6(2) provides that a transitions plan must be agreed by the local authority and by the child, and put in place, no later than 3 months before the child's sixteenth birthday. Section 6(3) of the Bill states that a transitions plan shall remain in place from before the child's sixteenth birthday until the child reaches their twenty-sixth birthday or such higher age as may be prescribed by order or regulations.

The Scottish Ministers have powers under Section 7 of the Bill to place duties on NHS Health Boards, Integration Joint Boards and on other persons as they consider appropriate in relation to a transitions plan.

Section 8 of the Bill places a duty on local authorities to ensure that each child and young person with a disability within the local authority area receives the care and support necessary to meet the needs identified in the child's transitions plan.

Provisions relating to the contents of a transitions plan are outlined in Section 9 of the Bill, while Section 10 addresses the arrangements for preparing a transitions plan.

A statutory duty is placed on local authorities under Section 11 of the Bill in relation to the management of a transitions plan.

The Scottish Ministers are given powers under Section 12 of the Bill to introduce provisions about dispute resolution under the legislation.

Section 13 of the Bill gives the Scottish Ministers the powers to introduce guidance to local authorities about their duties under Part 2 of the legislation.

The legislation gives the Scottish Ministers the powers, under Section 14(1), to issue Directions to local authorities, NHS Health Boards, Integration Joint Boards and such other bodies as may be prescribed by order or regulations, about transitions plans under the legislation.

Section 14(2) provides that these Directions may include directions to local authorities, to NHS Health Boards, to Integration Joint Boards and to such other bodies as may be prescribed by order or regulations, about the need to co-operate with each other in relation to the efficient and effective use of their resources to provide, and to deliver, transition plans under this legislation. Section 14(3) states that local authorities, NHS Health Boards, Integration Joint Boards and such other bodies as may be prescribed by order or regulations must comply with a direction under Section 14(1).

Section 14(4) provides that the Scottish Ministers may vary or revoke a Direction by introducing a subsequent direction under Section 14(1). Section 14(5) confirms that Directions must be in writing.

### **PART 3 – GENERAL**

Section 15 of the Bill provides that orders and regulations made by the Scottish Ministers under the Bill must be made by statutory instrument, and that the statutory instruments shall be subject to the affirmative procedure.



Certain technical terms used in the Bill are defined in Section 16 of the Bill. Section 17 of the Bill confirms commencement, while Section 18 confirms the short title of the Bill.

## 6. Questions

### ABOUT YOU

**(Note: Information entered in the “About you” section may be published as part of your response except where indicated in bold.)**

1. Are you responding as:

- An individual – in which case go to Q2A
- On behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)

- Politician (MSP/MP/Peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Child or young person with a disability
- Parent or other carer of a child or young person with a disability
- Member of the public

2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, Local Authority, NDPB)
- Commercial organisation (company, business)
- Representative organisation (trade union, professional association, membership organisation)
- Third sector (charitable, campaigning, social enterprise, voluntary, not for profit organisation)
- Other (e.g. clubs, local groups, groups of individuals, etc.)

Please explain briefly below what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the views expressed in its response were reached (e.g. whether it is the view of particular office-holders, or has been approved by the membership as a whole):

3. Please choose one of the following:

- I am content for this response to be published, and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published (“Not for Publication”)

If you have requested anonymity, or asked for your response not to be published, please give a reason. (Please note your reason will not be published):

4. Please provide your name or the name of your organisation. (Please note that the name will not be published if you have asked for the response to be anonymous, or to be considered as “Not for Publication”. Otherwise, this is the name which will be published with your response.)

Name:

Please provide a way in which we can contact you if there are any queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. Please note that we will not publish these details.)

Contact details:

5. Data protection declaration

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used.

## YOUR VIEWS ON THE PROPOSAL

(Please note that the Information entered in the “Your views on the proposal” section may be published, unless you have confirmed that your response to the consultation is “Not for Publication”.)

1.	What challenges do you think children with a disability face in the transition to adulthood?
2.	Do you think that children and young people with a disability should have a statutory right to a transitions plan?

3.	Why do you think that a transitions plan would be helpful or unhelpful?
4.	Will a National Transitions Strategy assist disabled young people to achieve independent living?

5.	What do you think the advantages and disadvantages would be of a National Transitions Strategy?
6.	Do you think it is necessary for there to be a Minister in the Scottish Government with special responsibility for ensuring that children and young people with a disability receive appropriate levels of care and support in the transition to adulthood?

7.	Do you have any other comments?
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## **7. How to respond to this consultation**

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

### **Format of responses**

If possible, please submit your response electronically – preferably in a MS Word document. Please keep formatting of this document to a minimum.

Please make clear whether you are responding as an individual (in a personal capacity) or on behalf of a group or organisation. If you are responding as an individual, you may wish to explain briefly what relevant expertise or experience you have. If you are responding on behalf of an organisation, you may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Please include with your response contact details (e-mail if possible, or telephone or postal address) so we can contact you if there is any query about your response.

### **Where to send responses**

Responses prepared electronically should be sent by e-mail to:

[johann.lamont.msp@parliament.scot](mailto:johann.lamont.msp@parliament.scot)

Responses prepared in hard copy should be sent by post to:

Johann Lamont MSP  
M1.16  
Scottish Parliament  
Edinburgh EH99 1SP

You may also contact Johann's office by telephone on (0131) 348 5847

### **Deadline for responses**

All responses should be received no later than 22 January 2020. Please let me know in advance of this deadline if you anticipate difficulties meeting it.

### **How responses are handled**

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than those which are 'not for publication') on an appropriate website in due course. Published, responses (other than anonymous responses) will include the name of the respondent, but other personal data sent



with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content or may edit the content itself and publish a redacted version.

I expect to prepare a summary of responses that I would lodge with a final proposal (the next stage in the process of securing the right to introduce a Member's Bill). The summary may cite, or quote from, your response (unless it is not for publication) and may name you as a respondent to the consultation (unless your response is anonymous). Should I lodge a final proposal, I may pass the completed summary to the Scottish Parliament's Non-Government Bills Unit for publication on the Parliament's website.

If I lodge a final proposal, I will be obliged to provide copies of responses (other than those not for publication) to the Scottish Parliament's Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

### **Requests for anonymity or not for publication**

If you wish your response, or any part of it, to be treated as **anonymous**, please state this clearly. You still need to supply your name, but if the response is treated as anonymous, only an anonymised version will be published or provided to SPICe. If you request anonymity, it is your responsibility to ensure that the content of your response does not allow you to be identified.

If you wish your response, or any part of it, to be treated as **not for publication**, please state this clearly. If the response is treated as not for publication (in whole or in part), it (or the relevant part) will not be published or provided to SPICe. I may reflect the general content of a not for publication response in the summary, but only if you are content that the way I propose to do so is consistent with the confidentiality involved.

### **Other exceptions to publication**

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

## Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or that the response is not for publication. I will not publish your signature or personal contact information.

The legal basis for collecting, storing and using the personal data that you provide with your consultation response can be found in Article 6(1)(e) of the GDPR. This Article permits the processing (using) of the personal data where it is necessary for the performance of a task carried out in the public interest.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person's consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response.

I will retain the data until the end of the current session of the Scottish Parliament (expected to end in March 2021)."

Further information about data protection can be found at: [www.ico.gov.uk](http://www.ico.gov.uk) and my privacy notice can be found at Annexe A of this document.

## 8. Annexe A: Privacy Notice

### JOHANN LAMONT MSP DATA PROTECTION PRIVACY NOTICE

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**This the Privacy Notice of the Office of Johann Lamont MSP. This privacy notice explains how my office collects and uses personal information about individuals. It is effective from 25 May 2018.**

#### **My office address and contact details are:**

Address: 423 Paisley Road West, Glasgow, G51 1PZ

Telephone: 0141 465 9937

Email: johann.lamont.msp@parliament.scot

#### **Notification:**

I am registered as a data controller with the UK Information Commissioner, registration number: Z6937246.

#### **How I use your personal data:**

I process any personal data under the requirements of the General Data Protection Regulation (EU) 2016/679 (the GDPR) and the Data Protection Act 2018 (the DPA).

#### **What is personal data?**

**Personal data is any information from which a living individual can be identified.**

I will hold all personal data securely. I will only use it for the purposes it was collected or acquired for and I will only pass it on to third parties with your consent or according to a legal obligation.

Further information about the data protection legislation and your rights is available here:

<https://ico.org.uk/for-the-public/is-my-information-being-handled-correctly/>

#### **Purposes and categories of processing personal data:**

I collect and use personal data to fulfil the following functions and associated activities of my office;

- to carry out casework on behalf of my constituents;
- to tend to local and national issues and campaigns I am involved in, including the use of casework data to inform national or local trends;
- to invite constituents to public meetings;
- to manage and support my staff and to maintain supplier relationships;
- to process expenses, accounts and associated records.

If you contact me with an inquiry or a complaint, I will normally need to store your contact details to deal with your inquiry or complaint. This is considered to be “normal category data” under the GDPR.

Other personal data you may provide to me may include details about your personal and family life, social circumstances and business activities, your employment and education details, financial information or information about your housing situation etc. Depending on what views, issues or experiences you wish to discuss with me, you may be sharing “special category” data with me. For example, this could include details about race or ethnic origin, political or religious views, sex life or sexual orientation, trade union membership, physical or mental health, genetic or biometric data or any criminal offences.

**The legal basis for processing personal data:**

Data protection law states that I must have a legal basis for handling your personal data. The permitted legal bases can be found in the GDPR and the DPB.

Depending on the circumstances, the legal basis for processing personal data in my office may include:

- Consent of the data subject (the person who the personal data relates to)
- Complying with legal obligations
- Protecting vital interests of individuals
- Pursuing legitimate interests
- Acting in the public interest, including democratic engagement activities
- The processing is necessary for the performance of a contract

**Categories of processing activities and corresponding legal basis:**

Processing of personal data means anything from collecting, storing, using to sharing and deleting (see link above for more information).

I process personal data in the following ways:

<b>Processing activity</b>	<b>The legal basis</b>	<b>How long I retain the data</b>	<b>How the data may be shared</b>
<b>Receiving, storing and responding to general enquiries by letter, email or in person</b>	The processing is necessary for the performance of a task carried out in the public interest or for the purpose of a legitimate interest (Art 6(1)(e) or 6(1)(f) GDPR). Or, for special category data: The processing is necessary for reasons of substantial public interest (Art 9(2)(g) GDPR and DPB Sch 1, para 23). The task is the engagement of constituents with their elected parliamentary representative.	I will retain information for as long as I am a sitting MSP.	Please refer to Sharing of personal data below.

	<p>The accessibility of elected representatives is in the public interest.</p> <p>Furthermore, the data will always be received with the consent of the person who has made the query, either through an online form, email, written or other form of consent.</p>		
<p><b>Receiving, storing and responding to complaints by letter, email or in person</b></p>	<p>The processing is necessary for the performance of a task carried out in the public interest or for the purpose of a legitimate interest (Art 6(1)(e) or 6(1)(f) GDPR). Or, for special category data: The processing is necessary for reasons of substantial public interest (Art 9(2)(g) GDPR and DPB Sch 1, para 23).</p> <p>The task is the engagement of constituents with their elected parliamentary representative. The accessibility of elected representatives is in the public interest.</p> <p>Furthermore, the data will always be received with the consent of the person who has made the query, either through an online form, email, written or other form of consent.</p>	<p>I will retain information for as long as I am a sitting MSP.</p>	<p>Please refer to Sharing of personal data below.</p>
<p><b>Receiving and storing data in relation to a personal issue or problem raised by a constituent (casework)</b></p>	<p>The processing is necessary for the performance of a task carried out in the public interest or for the purpose of a legitimate interest (Art 6(1)(e) or 6(1)(f) GDPR). Or, for special category data: The processing is necessary for reasons of substantial public interest (Art 9(2)(g) GDPR and DPB Sch 1, para 23).</p> <p>The task is the engagement of constituents with their elected parliamentary representative. The accessibility of elected representatives is in the public interest.</p> <p>Furthermore, the data will always be received with the consent of the person who has made the</p>	<p>I will retain information for as long as I am a sitting MSP.</p>	<p>Please refer to Sharing of personal data below.</p>

	query, either through an online form, email, written or other form of consent.		
<b>Analysis of contact from constituents in order to understand trends by area and over time of different issues and concerns, and use of this analysis</b>	The processing is necessary for the performance of a task carried out in the public interest or for the purpose of a legitimate interest (Art 6(1)(e) or 6(1)(f) GDPR). Or, for special category data: The processing is necessary for reasons of substantial public interest (Art 9(2)(g) GDPR and DPB Sch 1, para 23). The task is the analysis and subsequent use of that analysis to inform and assist me to perform my role as policy-maker and local representative.	I will retain information for as long as I am a sitting MSP.	Please refer to Sharing of personal data below.
<b>Collect and use data for the purpose of sending out newsletters with information about surgeries, office contact details and upcoming events and campaigns</b>	The processing is necessary for the performance of a task carried out in the public interest (Art 6(1)(e) GDPR). The task is informing the public about issues that will be of interest to them. The data will be collected using explicit opt-in consent.	I will retain information for as long as I am a sitting MSP.	Please refer to Sharing of personal data below.
<b>Take, store and use photos and videos in connection with my engagements and events I attend in my capacity as a MSP.</b>	The processing is necessary for the performance of a task carried out in the public interest or for the purpose of a legitimate interest (Art 6(1)(e) GDPR or Art 6(1)(f) GDPR). Furthermore, consent will always be obtained from the person photographer or videoed.	I will retain information for as long as I am a sitting MSP.	Please refer to Sharing of personal data below.
<b>Engage with constituents using surveys – letter, form, online</b>	The processing is necessary for the performance of a task carried out in the public interest (Art 6(1)(e) GDPR).	I will retain information for as long as I am a sitting MSP.	Please refer to Sharing of personal data below.

### Sharing of personal data:

I sometimes may be required to share the personal information I hold with other individuals or organisations including for example:

- healthcare, social and welfare organisations
- local and central government bodies
- educators and examining bodies

- statutory law enforcement agencies
- investigating bodies
- elected representatives and other holders of public office
- financial organisations
- crime prevention agencies and the police

The legal basis for sharing data with these organisations may be that

- the sharing is necessary for complying with a legal obligation to which I am subject (Art 6(1)(c) GDPR;
- the sharing is necessary in order to protect the vital interests of the data subject or of another person (Art 6(1)(d); or
- the sharing is necessary for the performance of a task carried out in the public interest or substantial public interest (Art 6(1)(e) or Art 9(2)(g) GDPR.

I may seek **your prior express consent** to share your personal data with any of the following:

- employment and recruitment agencies
- press and the media
- family, associates and representatives of the person whose personal data I am processing
- enquirers
- subjects of complaints
- political parties
- charitable parties

**The consequences of my not processing personal data are:**

- Where I am processing personal data for the performance of a contract, the consequence of not processing the personal data is that I may not be able to fulfil my obligations under that contract.
- Where I am processing personal data in accordance with a statutory obligation, the consequence of not processing personal data may be that I am liable to regulatory fines for non-compliance with that statutory duty.

**Automated data processing:**

I do not use automated processing techniques to process your data.

**Sharing or processing personal data outside the European Economic Area:**

I do not share or process personal data in locations outside the EEA.

**Retention of personal data:**

I retain personal data for the period that is necessary to carry out casework on behalf of my constituents, work on issues and campaigns I am involved in, and to support my staff and maintain supplier information, expenses, accounts and associated records.

**Your rights**

The GDPR sets out the rights which individuals have in relation to personal information held about them by data controllers. These rights are listed below, although whether you will be able to exercise each of these rights in a particular case may depend on the purpose for which the data controller is processing the data and the legal basis

upon which the processing takes place (see the individual privacy notices listed above for further details in relation to specific processing activities).

**Access to your information** – You have the right to request a copy of the personal information about you that I hold.

**Correcting your information** – I want to make sure that your personal information is accurate, complete and up to date and you may ask me to correct any personal information about you that you believe does not meet these standards.

**Deletion of your information** – You have the right to ask me to delete personal information about you where:

- You consider that I no longer require the information for the purposes for which it was obtained;
- I am using that information with your consent and you have withdrawn your consent;
- You have validly objected to my use of your personal information – my use of your personal information is contrary to law or our other legal obligations.

**Objecting to how we may use your information** – You have the right at any time to require me to stop using your personal information for direct marketing purposes. In addition, where I use your personal information to perform tasks carried out in the public interest then, if you ask me to, I will stop using that personal information unless there are overriding legitimate grounds to continue.

**Restricting how we may use your information** – in some cases, you may ask me to restrict how I use your personal information. This right might apply, for example, where I am checking the accuracy of personal information about you that I hold or assessing the validity of any objection you have made to my use of your information. The right might also apply where this is no longer a basis for using your personal information but you don't want me to delete the data. Where this right to validly exercised, I may only use the relevant personal information with your consent, for legal claims or where there are other public interest grounds to do so.

**Withdrawing consent using your information** - Where I use your personal information with your consent you may withdraw that consent at any time and we will stop using your personal information for the purpose(s) for which consent was given.

Please contact me using the contact details provided above.

### **Changes to my privacy statement**

I keep this privacy statement under regular review and will place any updates on this website.

This privacy statement was last updated on 24th May 2018.

### **Contact information and further advice**

Johann Lamont MSP

[johann.lamont.msp@parliament.scot](mailto:johann.lamont.msp@parliament.scot)



## **Complaints**

I seek to resolve directly all complaints about how I handle personal information but you also have the right to lodge a complaint with the Information Commissioner's Office:

Online: <https://ico.org.uk/global/contact-us/email/> By phone: 0303 123 1113

By post: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, SK9 5AF

## **9. Annex B: Draft Disabled Children and Young People (Transitions)(Scotland) Bill**

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

[AS INTRODUCED]

#### **CONTENTS**

##### **Section**

1. National Transitions Strategy
2. Duties
3. Review and publication
4. Special responsibility
5. Annual report
6. Duty to introduce a transitions plan
7. Other duties
8. Delivery of a transitions plan
9. Content of a transitions plan
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11. Management of a transitions plan
12. Dispute resolution
13. Guidance
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15. Subordinate legislation
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17. Commencement
18. Short title

**Disabled Children and Young People (Transitions)(Scotland) Bill**

**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:  
Explanatory Notes (SP Bill – Number TBC-EN)  
a Financial Memorandum (SP Bill TBC-FM), a Policy Memorandum (SP Bill  
TBC-PM) and statements on legislative competence (SP Bill TBC-LC).**

***Disabled Children and Young People (Transitions)(Scotland) Bill*****[AS INTRODUCED]**

An Act of the Scottish Parliament to require the Scottish Ministers to introduce, and to implement, a National Transitions Strategy to improve outcomes for children and young people with a disability in the transition to adulthood, and to require local authorities to introduce a transitions plan for each child and young person with a disability to ensure that each child and young person with a disability receives appropriate care and support before, and during, the transition to adulthood; and for connected purposes.

**PART 1****NATIONAL TRANSITIONS STRATEGY****1. *National Transitions Strategy***

- (1) The Scottish Ministers must, within one year of Royal Assent, prepare, publish and implement a strategy in relation to improving transitions for children and young people with a disability (“the National Transitions Strategy”).
- (2) The National Transitions Strategy must in particular set out—
  - (a) the aims and objectives, and outcomes, which the Scottish Ministers consider necessary to improve transitions for children and young people with a disability;
  - (b) the actions which the Scottish Ministers will take to meet the aims and objectives of the National Transitions Strategy;
  - (c) the actions and arrangements which local authorities, NHS Health Boards, Integration Joint Boards and other bodies or persons must take, or put in place, to meet the aims and objectives of the National Transitions Strategy;
  - (d) information about the support and assistance which will be available to children and young people with a disability before, and during, the transition to adulthood; and

(e) such other matters as the Scottish Ministers consider relevant to transitions for children and young people with a disability.

(3) The Scottish Ministers must, in preparing the National Transitions Strategy, publish a draft strategy, and consult on the draft strategy, and take into account any views and information received by them by virtue of such consultation.

(4) The persons consulted are to be those whom the Scottish Ministers consider are likely to be directly affected by the National Transitions Strategy, or otherwise to have an interest in that strategy, and in particular are to include—

(a) children and young people with a disability;

(b) the parents or other carers of children and young people with a disability;

(c) organisations working for, and on behalf of, children and young people with a disability, and their families;

(d) organisations consisting of people with a disability;

(e) local authorities;

(f) NHS Health Boards;

(g) Integration Joint Boards;

(h) the providers of other services to children and young people with a disability and their families; and

(i) such other persons as they consider appropriate.

## **2. *Duties to comply with National Transitions Strategy***

The Scottish Ministers, local authorities, NHS Health Boards, Integration Joint Boards and such other persons as the Scottish Ministers may prescribe by order or by regulations must, in exercising their functions under this Act, consider, and take into account, the aims and objectives, and outcomes, of the National Transitions Strategy.

## **3. *Review and publication of National Transitions Strategy***

(1) The Scottish Ministers must review the strategy introduced under section 1 before the end of the period of 3 years beginning with—

(a) the date on which the strategy was last published; or

(b) if subsequent to that date a report was prepared under subsection (2)(a) but the strategy was not revised under subsection (2)(b), the date of the most recent report.

(2) Following a review under subsection (1), the Scottish Ministers—

(a) must prepare a report on the review, including in particular the Scottish Ministers' assessment of the extent to which the strategy has been complied with; and

(b) may revise the strategy.

(3) If, following a review, the Scottish Ministers decide not to revise the strategy under subsection (2)(b), the report prepared under subsection (2)(a) must set out their reasons for not doing so.

(4) Before reviewing the strategy, the Scottish Ministers must consult the persons in Section 1(4) above.

(5) The Scottish Ministers must—

(a) publish the strategy within 1 year of Royal Assent;

(b) publish each revision of the strategy;

- (c) publish each report prepared under subsection (2)(a) above, and
- (d) lay before the Scottish Parliament—
  - (i) a copy of the strategy and each revision of the strategy, and
  - (ii) each report prepared under subsection (2)(a) above.

#### **4. Special responsibility**

The Scottish Ministers are to assign to a member of the Scottish Government, or to a junior Scottish Minister, special responsibility in relation to the exercise of their functions under this Act.

#### **5. Annual report**

- (1) At the end of each financial year, the Scottish Ministers must—
  - (a) lay before the Scottish Parliament; and
  - (b) make publicly available by such means as they consider appropriate, a report on the progress made by the National Transitions Strategy in improving transitions for children and young people with a disability in that year.
- (2) The report is to contain—
  - (a) an assessment of the extent to which the aims and objectives, and outcomes, of the National Transitions Strategy have been met in that year;
  - (b) a statement, where the aims and objectives, and outcomes, of the National Transitions Strategy were not met in that year, of how the Scottish Ministers intend to ensure that these aims and objectives, and outcomes, will be met.
  - (c) an assessment of how the National Transitions Strategy has affected the circumstances of children and young people with a disability;
  - (d) details of any additional initiatives which the Scottish Ministers will put in place, or actions it will take, to support the aims and objectives, and outcomes, of the National Transitions Strategy;
  - (e) information about the numbers of transition plans put in place by each local authority for children and young people with a disability in that year;
  - (f) a summary of the actions taken by each local authority to increase awareness of transitions plans for children and young people with a disability;
  - (g) details of the action that each local authority took in fulfilment of its duties under this Act;
  - (h) details of the initiatives which NHS Health Boards, the Integration Joint Boards and other bodies and persons have put in place, or actions they have taken, to support the aims and objectives of the National Transitions Strategy; and
  - (i) such other information as the Scottish Ministers consider relevant to the National Transitions Strategy, and to improving transitions for children and young people with a disability.
- (3) The first report under this section is to include a plan setting out the Scottish Ministers' intentions to collect and publish data for the purpose of monitoring equality

of opportunity where existing data sources are not sufficient for the preparation of the report.

## **PART 2**

### **TRANSITIONS PLANS**

#### **6. *Duty to introduce a transitions plan***

(1) A local authority must prepare and introduce a transitions plan for each child with a disability within the local authority area to improve outcomes for each child or young person with a disability within the local authority area in the transition to adulthood.

(2) A transitions plan under subsection (1) above must be agreed by the local authority and by the child, and put in place, no later than 3 months before the child's sixteenth birthday.

(3) A transitions plan shall remain in place from before the child's sixteenth birthday until the child reaches their twenty sixth birthday or such higher age as may be prescribed by order or regulations.

#### **7. *Other duties***

The Scottish Ministers may prescribe by order or by regulations duties on the following bodies or persons:

- (a) Local authorities;
- (b) NHS Health Boards;
- (c) Integration Joint Boards; and
- (d) such other persons as they consider appropriate.

in relation to a transitions plan.

#### **8. *Delivery of a transitions plan***

A local authority shall be responsible for ensuring that each child or young person with a disability within the local authority area shall receive the care and support necessary to meet the needs identified in the child's transitions plan.

#### **9. *Contents of a transitions plan***

(1) A transitions plan must contain-

- (a) a statement of the child's needs from before the child's sixteenth birthday until the child reaches their twenty sixth birthday or such higher age as may be prescribed by order or by regulations;
  - (b) details of the care and support which shall be put in place to address these needs; and
  - (c) such other matters as may be specified by order or regulations.
- (2) The Scottish Ministers may by order or regulations make provision as to—
- (a) such other information which is, or is not, to be contained in a transitions plan; and
  - (b) the form of a transitions plan.

### **10. Preparation of a transitions plan**

(1) In preparing a transitions plan, a local authority must, in so far as it is reasonably practicable, ascertain and have regard to the views of—

- (i) the child;
- (ii) the parents, or other carers, of the child;
- (iii) an advocate or support agency instructed by the child or their parents or other carers to act on behalf of the child;
- (iv) any other local authority or persons providing care and support under the transitions plan;
- (v) such persons, or the persons within such description, as the Scottish Ministers may prescribe by order or regulations; and
- (vi) such other persons as the local authority considers appropriate.

(2) In having regard to the views of the child, the local authority preparing the transitions plan must take account of the child's age and maturity.

### **11. Management of a transitions plan**

(1) A local authority which has prepared, and introduced, a transitions plan for a child under Section 6 above must appoint an officer to manage the transition plan, and to keep it under review.

(2) A local authority which has prepared and introduced a transitions plan under Section 6 above must keep under review whether or not—

- (a) the needs outlined in the transitions plan are still accurate;
- (b) the outcomes of the transitions plan have been achieved, or will be achieved;
- (c) the management of the transitions plan should transfer to another local authority.

(3) In reviewing a transitions plan, the local authority must consult-

- (a) the child or young person with a disability;
- (b) the parents, or other carers, of the child or young person with a disability;
- (c) an advocate or support agency instructed by the child or young person or their parents or other carers of the child or young person to act on behalf of the child or young person;

- (d) any other local authority or persons providing care and support under the transitions plan;
- (e) such persons, or the persons within such description, as the Scottish Ministers may prescribe by order or regulations; and
- (f) such other persons as the local authority considers appropriate.

(4) In having regard to the views of the child or young person as mentioned in subsection (3)(a), the local authority must take account of the child's or young person's age and maturity.

(5) The local authority in consequence of the review may—

- (a) amend the transitions plan so as to revise—
  - (i) the needs of the child or young person;
  - (ii) the care and support to address these needs; and
  - (iii) the outcomes which the plan is intended to achieve;
- (b) transfer the management of the plan to another relevant authority, or
- (c) end the plan.

(6) The Scottish Ministers may by order make provision about the management of transitions plans, including provision about—

- (a) when and how a transitions plan is to be reviewed in accordance with subsection (1) above;
- (b) which local authority is to manage a transitions plan;
- (c) when, and to whom, management of a transitions plan is to, or may, transfer under subsection (5)(b) above; and
- (d) the keeping, disclosure and destruction of a child's or young person's transitions plan.

## **12. *Dispute resolution***

The Scottish Ministers may by regulations make provision about the resolution of disputes between any local authority, or any other bodies or persons as may be prescribed by regulations, and—

- (a) any child who has attained the age of 14 years and who the authority is satisfied has capacity as respects views or decisions relating to the purposes of resolving such disputes; or
  - (b) the parents or other carers of the child; or
  - (c) any young person; or
  - (d) in relation to any young person who lacks capacity to express a view, or to make a decision, for the purposes of resolving such disputes, the young person's parents or other carers
- concerning a transitions plan, including the preparation of, or the contents of, or the management of or the delivery of a transitions plan.

## **13. *Guidance***

(1) The Scottish Ministers may issue guidance to local authorities about the operation of this Part including, in particular, guidance about—

- (a) the arrangements for the preparation and introduction of a transitions plan;



- (b) the delivery of a transitions plan;
  - (c) the contents of a transitions plan;
  - (d) the management of a transitions plan; and
  - (e) any other such matters relevant to transitions plan.
- (2) A local authority must have regard to any guidance issued to it under this section.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The Scottish Ministers must publish (in such manner as they consider appropriate) any guidance issued under this section.
- (5) The Scottish Ministers may at any time vary or revoke any guidance issued under this section.

#### **14. Directions**

- (1) The Scottish Ministers may give local authorities, NHS Health Boards, Integration Joint Boards and such other bodies as may be prescribed by order or regulations, general or specific directions about transitions plans under this Act.
- (2) Directions issued by the Scottish Ministers under subsection (1) above may include directions to local authorities, to NHS Health Boards, to Integration Joint Boards and to such other bodies as may be prescribed by order or regulations, about the need to co-operate with each other in relation to the efficient and effective use of their resources to provide, and to deliver, transitions plans under this Act.
- (3) Local authorities, NHS Health Boards, Integration Joint Boards and such other bodies as may be prescribed by order or regulations must comply with a direction under subsection (1) above.
- (4) The Scottish Ministers may vary or revoke a direction under subsection (1) above by giving a subsequent direction under that subsection.
- (5) Directions under this section must be in writing.

## **PART 3**

### **GENERAL**

#### **15. Subordinate legislation**

(1) Orders and regulations made by the Scottish Ministers under this Act—

- (a) must be made by statutory instrument; and
- (b) may make different provision for different purposes.

(2) Orders and regulations made by statutory instrument under this Act shall not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

#### **16. Interpretation**

In this Act—

“child” means a person under 18 years of age

“Disability” has the meaning given by Section 6 of the Equality Act 2010 (c.15)

“Health Board” means a board constituted by an order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29)

“Integration Joint Board” has the meaning given by section 1(4)(a) of the Public Bodies (Joint Working)(Scotland) Act 2014 (c, 9)

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

“prescribed” means prescribed by order or regulations made by the Scottish Ministers

“young person” means a person who has attained the age of 18, and is under the age of 26 years

#### **17. Commencement**

This Act comes into force the day after Royal Assent.

**18. Short title**

This Act may be cited as the Disabled Children (Transitions) (Scotland) Act 2018.

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<sup>i</sup> Initial destinations of senior phase school leavers: 2018 edition, Scottish Government, 2018