

# **Consultation on Draft Statutory Guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014**

# **Consultation on Draft Statutory Guidance for Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014**

## **Contents**

Executive Summary

Draft Guidance on Part 9 (Corporate Parenting) of the Act

Responding to this Consultation Paper

Annex 1: Consultation Questions

Annex 2: Respondent Information Form

## Executive Summary

### THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT

The Children and Young People (Scotland) Act 2014 was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place in the world to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the United Nations Convention on the Rights of the Child 1989 ([UNCRC](#)), and the national children's services improvement programme, Getting it right for every child ([GIRFEC](#)), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.

The Act introduces a number of important changes for looked after children and care leavers in Scotland. In summary, these are:

- 600 hours of free early learning and child care for all two year olds who are 'looked after' or secured with friends or relatives through a Kinship Care Order (Part 6, section 49).
- Corporate parenting duties for certain public bodies (Part 9).
- Extends eligibility for aftercare assistance up to the age of 25; new duty on local authorities to report on the death of a young person in receipt of aftercare services (Part 10).
- 'Continuing Care', providing certain care leavers with the opportunity to continue with the accommodation and assistance they were provided with immediately before they ceased to be looked after (Part 11).
- Support for children at risk of becoming looked after (Part 12)
- Assistance for applicants and holders of a Kinship Care Order (Part 13)
- Use of Scotland's Adoption Register made a duty on all adoption agencies (Part 14).

This consultation relates to the draft Statutory Guidance on Corporate Parenting (Part 9) of the Children and Young People (Scotland) Act 2014 and will run from 15 December 2014 until 15 March 2015.

# **Children and Young People (Scotland) Act 2014**

## **Statutory Guidance on Part 9: Corporate Parenting**

**Scottish Government**

## Contents

PREFACE.....	1
INTRODUCTION .....	3
DEFINITION OF TERMS .....	5
THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014.....	10
SECTION 56: CORPORATE PARENTS.....	12
SECTION 57: APPLICATION OF PART 9 .....	17
SECTION 58: CORPORATE PARENTING RESPONSIBILITIES.....	21
SECTION 59: PLANNING BY CORPORATE PARENTS .....	34
SECTION 60: COLLABORATIVE WORKING AMONG CORPORATE PARENTS .....	38
SECTION 61: REPORTS BY CORPORATE PARENTS .....	40
SECTION 62: DUTY TO PROVIDE INFORMATION TO SCOTTISH MINISTERS .....	43
SECTION 63: GUIDANCE ON CORPORATE PARENTING .....	45
SECTION 64: DIRECTIONS TO CORPORATE PARENTS .....	46
SECTION 65: REPORTS BY SCOTTISH MINISTERS .....	47
OUTCOMES FROM CORPORATE PARENTING .....	48
REFERENCES TO 'WELLBEING' IN PART 9.....	50
INTERACTION BETWEEN CORPORATE PARENTS AND THOSE WITH PARENTING RIGHTS AND RESPONSIBILITIES .....	52
COMPLAINTS AND DISPUTES.....	54
ENFORCEMENT OF PART 9 (CORPORATE PARENTING).....	56
APPENDIX A: LEGAL FRAMEWORK.....	57
APPENDIX B: POLICY CONTEXT.....	60
APPENDIX C: FURTHER INFORMATION.....	63

## PREFACE

1. This statutory guidance is issued by the Scottish Ministers under section 63 of the [Children and Young People \(Scotland\) Act 2014](#) (the Act). It provides corporate parents with information and advice about how they should fulfil the duties set out in Part 9 (Corporate Parenting) of the Act. These duties come into force on 1 April 2015.
2. Subject to specific exemptions, all corporate parents must have regard to this guidance. Compliance will be monitored through reviews of corporate parenting reports (carried out by Scottish Ministers), independent inspection mechanisms and existing governance arrangements.
3. Due to the variety of organisations included as corporate parents, this guidance does not prescribe specific processes and planning / reporting formats. Instead it sets out the parameters within which corporate parents should develop their own approaches, either individually or in partnership. Those approaches should also be shaped by the corporate parent's primary functions, and informed by the needs, views and experiences of looked after children and care leavers.
4. This guidance should be read alongside the guidance for Part 1 (Rights of Children), Part 3 (Children's Services Planning), Part 4 (Provision of Named Persons), Part 5 (Child's Plan), Part 10 (Aftercare) and section 96 (Assessment of wellbeing) of the Act. Other relevant legislative and policy guidance is listed at Appendix A.
5. This guidance is accompanied by a series of *Corporate Parenting National Practice Notes*, designed to support individual or groups of corporate parents to understand their legal responsibilities (within the scope of their other functions) and to learn from existing good practice. The guidance and Practice Notes should enable corporate parents to implement comprehensive and child/young person centred corporate parenting strategies, which improve the care experiences and outcomes of looked after children and care leavers across Scotland.

6. This guidance has been developed to assist corporate parents, but it will also be of interest to other individuals and organisations involved in supporting looked after children and care leavers.

## INTRODUCTION

7. When a child or young person becomes 'looked after' the state assumes duties and responsibilities to safeguard and promote their welfare and wellbeing. A wide range of legislation, regulation and guidance provides the framework within which actions take place, but the end-purpose of all of them is the same: to secure nurturing, positive childhoods, from which these vulnerable young people can develop into successful learners, confident individuals, responsible citizens and effective contributors.
8. Yet despite the extensive framework of law and policy, many looked after children and care leavers experience some of the poorest personal outcomes of any group in Scotland. Low levels of educational engagement and achievement feed into high levels of poverty, homelessness and poor mental health.<sup>1</sup> Rates of suicide and self-harm are higher than that of the general population.<sup>2</sup> In 2013 a third of young offenders had been in care at some point in their childhood.<sup>3</sup>
9. The needs of looked after children and care leavers are often complex, reflecting backgrounds of trauma, loss and instability. Some have physical and/or mental disabilities. Safeguarding and promoting their welfare and wellbeing can, therefore, be challenging. But since national records began in 1981 the total number of looked after children and care leavers (eligible for services) have never exceeded more than 0.5% of the total Scottish population.<sup>4</sup> In view of Scotland's considerable human and financial resources, we can and must do better for these vulnerable children and young people.

---

<sup>1</sup> Scottish Government (published annually) [Children's Social Work Statistics](#), Edinburgh; Meltzer, H, et al (2004) *The mental health of young people looked after by local authorities in Scotland*, London: TSO.

<sup>2</sup> Furnivall, J (July 2013) [Understanding suicide and self-harm amongst children in care and care leavers](#), IRISS Insights No. 21, Glasgow

<sup>3</sup> Broderick. R, McCoard. S & Carnie. J (January 2014) [Prisoners who have been in care as 'looked after children' 2013: 14<sup>th</sup> Survey Bulletin](#), Scottish Prison Service, p.5

<sup>4</sup> Calculation based on General Records Office Mid-Year Population Estimates 1981-2013, and Children Looked After Statistics, multiple years (figures for 'total numbers of Looked After Children' and 'eligible for aftercare services')



10. Corporate parenting represents the principles and duties on which improvements can be made for these young people. The term refers to the performance of all actions necessary to promote and support the wellbeing of a looked after child or care leaver, including their physical, emotional, spiritual, social and cognitive development, at any point from their infancy through to adulthood. Corporate parenting is about listening to the needs, fears and wishes of children and young people, and being proactive and determined in our collective efforts to meet them. In 2008 the Scottish Government and Local Authorities confirmed their commitment to the approach in [\*These Are Our Bairns: A Guide for Community Planning Partnerships on Being a Good Corporate Parent\*](#). The Scottish Government has now decided to build on this policy, extending corporate parenting duties to a wider group of public bodies and establishing requirements for corporate parents to plan and report on their activities.
11. The purpose of this guidance is to clarify the duties of corporate parents, and explain the rationale behind them. It is designed to support corporate parents to turn Part 9 of the Act into practice which improves outcomes for looked after children and care leavers. The purpose of the Act as a whole is explained, and definitions set out for terms frequently used in this guidance (such as 'looked after child'). Each duty is then considered in a short, separate chapter, with links made to other relevant guidance and / or legislation where appropriate. A chapter on 'outcomes from corporate parenting' provides guidance on where corporate parents should concentrate their efforts, in respect to children and young people's wellbeing. There are also chapters on dispute resolution, and interactions between corporate parents and birth parents. Appendix A sets Part 9 (Corporate Parenting) in the wider legislative context for looked after children and care leavers. Appendix B provides further background information on the policy of corporate parenting. Appendix C contains a reference list of useful resources and further information, which will assist in the implementation of Part 9 (corporate parenting).

## DEFINITION OF TERMS

### *Looked After Child*

12. The definition of a 'looked after child' is set out in Section 17(6) of the Children (Scotland) Act 1995 ("the 1995 Act"), as amended by the Adoption and Children (Scotland) Act 2007 ("the 2007 Act") and Children's Hearings (Scotland) Act 2011 ("the 2011 Act"). A child is 'looked after' by a local authority when he or she is:

- provided with accommodation by a local authority under section 25 of 1995 Act; or
- subject to a compulsory supervision order or an interim compulsory supervision order made by a children's hearing in respect of whom the local authority are the implementation authority (within the meaning of the 2011 Act); or
- living in Scotland and subject to an order in respect of whom a Scottish local authority has responsibilities, as a result of a transfer of an order under regulations made under section 33 of the 1995 Act or section 190 of the 2011 Act; or.
- subject to a Permanence Order made after an application by the local authority under section 80 of the 2007 Act.

13. To assist in the provision of their care some children and young people with physical and/or mental disabilities are 'looked after' by local authorities (often under a 'section 25' arrangement). These children and young people are legally 'looked after', and so covered by the duties set out in Part 9 of the Act.

14. A child who has been adopted, or a child who is secured in a placement with friends or relatives by means of a Kinship Care Order (Section 11 of the Children (Scotland) Act 1995), is not considered 'looked after'. However, in both cases, a child may still become 'looked after'. Where this occurs, the child is covered by Part 9 (and other Parts of the Act relating to 'looked after children').

15. The legal route by which a child became looked after has no relevance to their entitlement for corporate parenting support. If a child is 'looked after', by any of the means set out above, the duties set out in Part 9 apply.
16. In this guidance the terms 'looked after child' and 'looked after children' refer to any individual falling into the definition provided above. It is acknowledged that some young people prefer the term 'looked after children and young people', but for ease of reading this guidance uses 'looked after child' or 'looked after children' to cover children and young people of all ages, from birth through to adulthood.

### ***Care leavers***

17. The definition of a care leaver is set out in [section 29](#) of the Children (Scotland) Act 1995, as amended by [section 66](#) of the Children and Young People (Scotland) Act 2014 and the Aftercare (Specified Persons and Eligible Needs) (Scotland) Order 2015.
18. From 1 April 2015 a young person will become a 'care leaver' if they cease to be 'looked after' on, or at any time after, their sixteenth birthday. In addition, under the Aftercare (Specified Persons and Eligible Needs) (Scotland) Order 2015, any person who between their eleventh and sixteenth birthdays was, but is no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years, will also be considered a 'care leaver'.
19. Please note that young people who became care leavers under the previous definition of a 'care leaver' will continue to be considered care leavers after April 2015. This means that a young person who became a care leaver under the previous definition will still be covered by the duties set out in Part 9 (corporate parenting) and eligible to the extended aftercare support provided through Part 10 (aftercare) of the Act. The previous definition of a care leaver was a young person who ceased to be looked after on or beyond their minimum school leaving age.

## **Corporate Parent**

20. The definition of a 'corporate parent' is provided by Section 56 of the Children and Young People (Scotland) Act 2014. An organisation or individual is a corporate parent if they are "listed, or within a description listed, in schedule 4" of the Act.

## **Corporate Parenting**

21. For the purposes of this guidance the term corporate parenting is defined as:

*An organisation's performance of actions necessary to promote and support the wellbeing of a looked after child or care leaver, including their physical, emotional, spiritual, social and cognitive development.<sup>5</sup>*

22. The necessary actions are set in section 58 of the Act (corporate parenting responsibilities).

## **Needs**

23. An individual's 'needs' will be unique, identified through the process of assessment. For details about how 'needs' should be identified please refer to the guidance on 'Assessing the needs of children and young people for services and support' and 'Assessing wellbeing' below.)

---

<sup>5</sup> Definition is adapted from Sonia Jackson's definition of 'parenting' presented in M. Davies (ed) (2000) *The Blackwell Encyclopaedia of Social Work*, Oxford, Blackwell, and cited in the Scottish Government (2008) [\*These Are Our Bairns: A Guide for Community Planning Partnerships on Being a Good Corporate Parent.\*](#)

## ***Interests***

24. The term “interests” is not defined in the Act, so for the purposes of this guidance it should be interpreted as being “advantage or benefit”. Therefore the duty to promote relates to actions which may advantage or benefit looked after children and care leavers.

## ***Wellbeing (as described in section 96 of the Act)***

25. Section 96(2) of the Act describes the term wellbeing in terms of eight indicators. A person assessing a child or young person’s wellbeing is to consider the extent to which the child or young person is:
- **Safe:** protected from abuse, neglect or harm.
  - **Healthy:** having the best possible standards of physical and mental health, support to make healthy and safe choices.
  - **Achieving:** accomplishing goals and boosting skills, confidence and self-esteem.
  - **Nurtured:** having a nurturing and stimulating place to live and grow.
  - **Active:** having opportunities to take part in activities.
  - **Respected:** being given a voice, being listened to, and being involved in the decisions which affect their wellbeing.
  - **Responsible:** taking an active role within their home, school and community
  - **Included:** being a full member of the communities in which they live and learn, receiving help and guidance to overcome inequalities.
26. These eight wellbeing indicators are sometimes known collectively by the acronym ‘SHANARRI’. While each indicator is separately defined, in practice they are connected and overlapping. Taken together the eight indicators offer a holistic view of each child or young person, identifying strengths as well as barriers to growth and development.

27. In respect to wellbeing, the term *promoted* means 'actively encouraged or further developed'. The term *safeguarded* means 'protected from harm or damage'. The term *affected* means 'influenced, changed'.

## THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

28. The [Children and Young People \(Scotland\) Act 2014](#) (the Act) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place in the world to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children's services improvement programme, [Getting it Right for Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.

29. The Act introduces a number of important changes for looked after children and care leavers in Scotland. In summary, these are:

- 600 hours of free early learning and child care for all two year olds who are 'looked after' or secured with friends or relatives through a Kinship Care Order (Part 6, sections 47 and 48).
- Corporate parenting duties for certain individuals and organisations (Part 9).
- Extends eligibility for aftercare assistance up to the age of 25; new duty on local authorities to report on the death of a young person in receipt of aftercare services (Part 10).
- 'Continuing Care', providing certain care leavers with the opportunity to continue with the accommodation and assistance they were provided with immediately before they ceased to be looked after (Part 11).
- Support for children at risk of becoming looked after (Part 12)
- Assistance for applicants and holders of a Kinship Care Order (Part 13)
- Use of Scotland's Adoption Register made a duty for all adoption agencies (Part 14).

30. Guidance on all of these changes will be made available by the Scottish Government. This guidance relates to Part 9 (corporate parenting) of the Act.



## GUIDANCE

### SECTION 56: CORPORATE PARENTS

31. All persons and organisations listed, or within a description listed, in schedule 4 of the Act are ‘corporate parents’ for the purposes of Part 9. Unless explicitly stated in the legislation, corporate parents are subject to all the duties detailed in this guidance.
32. At the date of the commencement (1 April 2015) the persons and organisations listed on schedule 4 are:

1	The Scottish Ministers
2	A local authority
3	The National Convener of Children’s Hearings Scotland
4	Children’s Hearings Scotland
5	The Principal Reporter
6	The Scottish Children’s Reporter Administration
7	A health board
8	A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978
9	Healthcare Improvement Scotland
10	The Scottish Qualifications Authority
11	Skills Development Scotland Co. Ltd (registered number SC 202659)
12	Social Care and Social Work Improvement Scotland
13	The Scottish Social Services Council
14	The Scottish Sports Council
15	The chief constable of the Police Service of Scotland
16	The Scottish Police Authority
17	The Scottish Fire and Rescue Service
18	The Scottish Legal Aid Board
19	The Commissioner for Children and Young People in Scotland

20	The Mental Welfare Commission for Scotland
21	The Scottish Housing Regulator
22	Bòrd na Gàidhlig
23	Creative Scotland
24	A body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005

#### **Explanation of terms used in schedule 4**

33. The term “Scottish Ministers” refers to the Scottish Government and its Executive Agencies. All Scottish Ministers, and the directorates for which they are responsible, are corporate parents. Executive Agencies are organisations set up to perform a specific task(s) by the Scottish Government, reporting directly to Ministers. As such, all Executive Agencies will be subject to the corporate parenting duties set out in Part 9. The Scottish Government’s Executive Agencies are Accountant in Bankruptcy, Disclosure Scotland, Education Scotland, Historic Scotland, Scottish Prison Service, Scottish Public Pensions Agency, Student Awards Agency for Scotland, and Transport Scotland.<sup>6</sup>
34. Scottish Ministers are exempt from the duties set out in sections 61 – 64. Executive Agencies are also exempt from these sections of Part 9, but due to their accountability to Ministers, Executive Agencies are still expected to fulfil the duties prescribed in Part 9 of the Act. Executive Agencies will be asked to provide information to Scottish Ministers about how they have exercised their corporate parenting responsibilities. It is therefore advised that Executive Agencies implement Part 9 in full, having regard to all parts of this guidance.
35. The term ‘a health board’ refers to Scotland’s fourteen territorial health boards, responsible for the protection and the improvement of their population’s health and for the delivery of frontline healthcare services.

---

<sup>6</sup> List of Executive Agencies correct at date of publication, April 2015

36. The term ‘a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978’ refers to the seven special health boards which provide a range of national or specialist services in Scotland. These are NHS Education for Scotland, NHS Health Scotland, NHS National Waiting Times Centre, NHS 24, Scottish Ambulance Service, The State Hospitals Board for Scotland, and NHS National Service Scotland.<sup>7</sup>
37. The term ‘a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005’ refers to colleges and higher education institutions (including all universities) in Scotland who are financed (in whole or part) by the Scottish Further and Higher Education Funding Council. The term ‘post-16 education body’ was introduced into the Further and Higher Education (Scotland) Act 2005 by the ‘Modifications of Enactments’ included in the Post-16 Education (Scotland) Act 2013. The modified 2005 Act now includes the definition that a “post-16 education body means “any fundable post-16 education body”. These bodies are listed in schedule 2 of the 2005 Act. The list includes all colleges, universities and other higher education institutions currently operating in Scotland. All colleges, universities and higher education institutions are therefore corporate parents, subject to the duties (excluding section 64) set out in Part 9 of the Act and detailed in this guidance.

### **Modifications and Exemptions**

38. Under section 56(2) Scottish Ministers may, by order, modify schedule 4. This means that Scottish Ministers can add, delete or amend entries to the list of corporate parents.
39. Section 56(4) provides for certain corporate parents to be exempted from the duty to follow directions issued by Scottish Ministers (as laid out in section 64). This exemption applies to:
- the Commissioner for Children and Young People in Scotland (SCCYP);

---

<sup>7</sup> List of Special Health Boards correct at date of publication, April 2015

- a body which is a “post 16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.

40. Section 56(5) gives Scottish Ministers the power, when adding persons to schedule 4 by order under section 56(2), to extend this exemption to new corporate parents.

#### **Schedule 4: A whole organisation responsibility**

41. Corporate parenting is not a task which can be delegated to an individual or team. Inclusion in schedule 4 means that the whole organisation (or the staff who support the individual listed) is responsible for fulfilling the corporate parenting duties set out in Part 9.

42. The purpose and intention of Part 9 is to improve how organisations as a whole support looked after children and care leavers. Implementation of this Part must be led by senior management across all departments, regardless of their focus or function. Staff at all levels must understand their duties, and be supported and enabled to fulfil them. In order to do so, it is recommended that each corporate parent review their induction and staff development processes.

43. Corporate parenting is a corporate responsibility. An organisation’s most senior corporate management is therefore responsible for ensuring that the duties set out in Part 9 are met. Moreover, senior corporate management will be held accountable for an organisation’s performance in respect to corporate parenting. Individuals involved in the governance of organisations (i.e. councillors and independent Board members) will have an important role in scrutinising the activity of senior management.

44. Please note that while responsibility for delivering a service, support or opportunity (to a looked after children or care leaver) may be delegated to an external provider or integrated authority (such as a Health and Social Care Partnership), accountability for securing and promoting the wellbeing of children

and young people to which Part 9 applies remains with the organisations and individuals listed in schedule 4 of the Act.

## SECTION 57: APPLICATION OF PART 9

45. Section 57 describes the population of children and young people to which Part 9 (corporate parenting) applies. The Act states that:

*(1) This Part applies to—*

*(a) every child who is looked after by a local authority, and*

*(b) every young person who—*

*(i) is under the age of 26, and*

*(ii) was (on the person's 16th birthday or at any subsequent time) but is no longer looked after by a local authority.*

46. Provision 1(a) means that a corporate parent's duties apply equally to all looked after children, regardless of their age, gender, location or placement type. Provision 1(b) means that a corporate parent's duties apply equally to all care leavers, up until their 26<sup>th</sup> birthday. (For further details about the definition of a looked after child and care leaver, please see the pages 4 and 5 above.)

47. The Act goes on to state that:

*(2) This Part also applies to a young person who—*

*(a) is at least the age of 16 but under the age of 26, and*

*(b) is not of the description in subsection (1)(b)(ii) but is of such other description of person formerly but no longer looked after by a local authority as the Scottish Ministers may specify by order.*

48. Under this provision Scottish Ministers have introduced the Corporate Parenting (Specified Persons) (Scotland) Order 2015, extending the population to which Part 9 (corporate parenting) applies. This statutory instrument states that corporate parenting duties will also apply to:

*Persons who between their 11th and 16th birthdays were, but are no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years [...]*

49. Taken together, the Act and Corporate Parenting (Specified Persons) (Scotland) Order 2015 mean that corporate parenting duties apply to: (1) looked after children, at any age; (2) care leavers between the ages of 16 and 26; (3) other young people (as defined by the Order) between the ages of 16 and 26.

### **Local and national: application of Part 9**

50. Where a corporate parent's functions relate to Scotland as a whole (rather than a local administrative area) corporate parenting duties apply to all looked after children and care leavers in Scotland. Where a corporate parent's functions are restricted to a specific administrative area within Scotland (such as a local authority or Health Board) corporate parenting duties apply to the looked after children and care leavers supervised by (or eligible to support from) the local authority (or group of local authorities, in the case of a Health Board).
51. Where looked after children and young people have been placed into an area by another local authority, or a care leaver moves to a new area of their own volition, the placing / home local authority and its partners (in particular the Health Board) remain the child / young person's corporate parents, subject to the duties described in this guidance. This is consistent with the principles and rules set out in [Looked After Children \(Scotland\) Regulations 2009](#) and the [Support and Assistance of Young People Leaving Care \(Scotland\) Regulations 2003](#).<sup>8</sup> To ensure a young person continues to receive the same standard of care or service as they would have received if they had remained in the care of the placing home local authority and its partners, corporate parents may wish to enter into agreements with the receiving local authority and health board about the provision of services or support. However, while responsibility for delivering

---

<sup>8</sup> For further information please see Chapter 5 (Responsible Local Authority) of the [Supporting Young People Leaving Care in Scotland: Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities](#)

a service or support may be transferred to the host authority / health board, the responsibility for securing and promoting the individual's wellbeing remains with the placing / home authority / health board. Where relevant, corporate parenting plans and reports should make explicit reference to how corporate parenting duties are being fulfilled for children placed outside of their administrative boundaries, and for care leavers who have moved away.

52. All corporate parents should be clear that the purpose of Part 9 is to secure positive outcomes for all looked after children and care leavers, regardless of where they live or who is legally responsible for them. In working to fulfil the duties described below, 'corporate parenting' should not become a negotiation about who is responsible for providing a service or opportunity. Every corporate parent, including those restricted to a specific administrative area, should do what they can to secure and promote the wellbeing of all the looked after children and care leavers with which they interact; even if legal responsibility for the child or young person lies elsewhere. Effective collaboration between corporate parents will require discussions about resources, but these should never prevent a child or young person from receiving an opportunity, service or support to which they are entitled under Part 9.

### **Children placed with third sector or private care providers**

53. Where a looked after child is placed with a third sector or private care provider (i.e. a residential care and / or education establishment) the placing local authority and its relevant local partners (in particular the home Health Board) remain the child's corporate parents. Day-to-day responsibility for safeguarding and promoting a child's wellbeing may be delegated to the independent care provider but, without exception, the child's corporate parents remain accountable for the fulfilment of the duties and functions set out in Part 9.

### **Transitions**

54. Children who cease to be 'looked after' by a local authority are no longer covered by Part 9 of the Act. However, the Act as whole is focused on securing



and promoting the wellbeing of all children. A child who is ceasing to be looked after should not experience a sudden removal of support or opportunities, but rather a transition to alternative interventions (as set out in their Child's Plan). Where relevant, corporate parents should consider their duties to children and young people under other Parts of the Act (and other legislation) when assessing how to support a child or young person who has recently ceased to be looked after. The involvement of corporate parents, families, mentors and other trusted adults will be important to securing positive transitions for children.

55. Similarly, while the corporate parenting duties set out in Part 9 of the Act come to an end at a young person's 26<sup>th</sup> birthday, corporate parents are encouraged to keep the needs of the young person at the centre, and plan the transition away from support and services in cooperation with the young person and any other appropriate persons or services.

## SECTION 58: CORPORATE PARENTING RESPONSIBILITIES

56. The ‘corporate parenting responsibilities’ represent the core element of Part 9. Taken together the six duties provide a working definition of corporate parenting, and it is through a corporate parent’s efforts to fulfil these duties that they will safeguard and promote the wellbeing of looked after children and care leavers.

57. Under section 58 the corporate parenting responsibilities are set out as:

*(1) It is the duty of every corporate parent, in so far as consistent with the proper exercise of its other functions —*

*(a) to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies,*

*(b) to assess the needs of those children and young people for services and support it provides,*

*(c) to promote the interests of those children and young people,*

*(d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing,*

*(e) to take such action as it considers appropriate to help those children and young people—*

*(i) to access opportunities it provides in pursuance of paragraph (d),*

*(ii) to make use of services, and access support, which it provides, and*

*(f) to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people.*

58. Although corporate parents will fulfil these duties in a variety of ways, in view of their varied other functions, it is important to note that these six duties are not a menu from which corporate parents can pick and choose. The corporate parenting responsibilities are interrelated; good ‘corporate parenting’ depends on each of the duties being fulfilled. A corporate parent can fulfil these duties individually or in collaboration, but corporate parenting plans and reports should

be explicit about how (individual and groups of) corporate parents will meet each obligation.

**(a) Be alert to matters which might adversely affect wellbeing**

59. In so far as it is consistent with the exercise of their other functions, corporate parents must be alert to matters which, or which might, adversely affect the wellbeing of looked after children and care leavers (section 58(1)(a)). This means that corporate parents must have systems in place to keep them informed of issues which could, potentially, have a negative impact on the life of a child or young person (or the population as a whole). Relevant 'matters' might include changes of placement and / or residence, changes in the accessibility of a service, or interaction with the justice system as a victim or witness. The seven indicators of wellbeing are: safe, healthy, achieving, nurtured, active, respected, responsible, and included. Corporate parents must be alert to matters which might adversely affect a child's or young person's wellbeing in any of these areas. (A full definition of wellbeing is set out on page 8 above).
60. Keeping alert to such matters requires a process of engagement with children and young people, and, where relevant, their primary carers. Only by engaging in dialogue will corporate parents be able to identify, understand and address the issues which matter most to looked after children and care leavers. To a significant extent this dialogue is already underway through established and informal mechanisms, as children and young people engage with the professionals and carers with whom they already have relationships. The feedback of these professionals, carers, mentors and advocates will be critical to corporate parents. But alongside these established and informal mechanisms, corporate parents should (where appropriate, in view of their other functions) provide opportunities for children, families, carers and young people to raise issues and concerns with them directly, through regular dialogue. These opportunities should be well publicised, and accessible to the broad range of children and young people to which Part 9 applies. These opportunities will need to be safe spaces (physically and emotionally), well-facilitated and sensitive to the participants needs. Importantly, these

opportunities for young people to engage directly with corporate parents should not be developed in isolation from each other. In view of the duty on corporate parents to collaborate (section 60) and avoid duplication, corporate parents should consider coordinating any direct engagement activities. (Further information on models of direct engagement will be available in the Practice Notes.)

61. Where it is not possible or appropriate for a corporate parent to engage directly with looked after children and care leavers (or, where relevant, their primary carers) it is sufficient for information (on matters which could adversely affect wellbeing) to be relayed by other corporate parents (such as those who have regular contact with the eligible population). Those corporate parents who do not engage with children and young people directly, or whom are unable to identify looked after children and care leavers within their services, should consider supplementing any information received from other corporate parents with contributions from service providers, research, and data published regularly by the Scottish Government and its agencies.

**(b) Assess the needs of children and young people for services and support**

62. In so far as it is consistent within the exercise of their other functions, corporate parents must assess the needs of looked after children and care leavers for any services and support they provide to children and young people (section 58(1)(b)). This is to ensure that the services they provide are both relevant and accessible to the widest possible group of looked after children and care leavers. In the context of this guidance, the term ‘needs’ may be interpreted as “the actions which must be taken to safeguard or promote a looked after child or young person’s wellbeing (in any one or several of the SHANARRI domains)”. If a child requires additional support to engage in physical activity, for example, this is a wellbeing need. (For children, the responsibilities of the agencies involved in addressing wellbeing needs will be included in the Child’s Plan. For further details on the content of a Child’s Plan, please read the Statutory Guidance on Part 5: Child’s Plan.)

63. This duty relates to an assessment of the needs of individual looked after children and care leavers, and the population as a whole. For those corporate parents who do not provide services directly to children and young people it will be sufficient to undertake a general assessment of the population's needs. Much relevant information will be available through 'keeping alert to matters' which affect the population's wellbeing (section 58(1)(a)). Corporate parents may also have existing processes which highlight the challenges (and therefore 'needs') faced by those looked after children and care leavers who engage with their services and support. Taken together, and complimented with information provided by a range of external organisations (including service providers and academic research), these sources may provide a sufficient assessment of the population's needs.
64. A general assessment of population need will also be sufficient for those corporate parents (such as the Police and universities) who provide services directly to children and young people but who are unable to identify looked after children or care leavers. However these corporate parents should thoroughly explore options for how they might identify those individual young people covered by Part 9. For example, the 16+ Learning Choices Data Hub (administered by Skills Development Scotland) should enable providers of 16+ education to direct services and support to looked after children and some care leavers.
65. Where a corporate parent does provide services directly to looked after children and care leavers, the corporate parent should have a system in place to assess individuals for the services and support they provide. In many cases an assessment of the child or young person's needs will already have been undertaken; in the case of individual looked after children, each should have a Child's Plan, and for those care leavers engaged with aftercare services there should be a Pathway Plan. However, there will be instances where no plan is in place (such as for a care leaver who is not engaged with aftercare services) and in these cases relevant corporate parents must have systems in place to assess individuals for the support they provide.

66. Where a corporate parent does provide services to looked after children and care leavers, efforts should be made to collate the information available from individual-level assessments into an anonymised, population-wide assessment. This information should be shared with other corporate parents, and used by strategic and operational decision makers in the evaluation and planning of services and support.
67. The aim of this duty is to ensure services and support are relevant and accessible to looked after children and care leavers. It is not, therefore, sufficient for needs to be identified but not addressed. Where relevant, corporate parenting plans and reports should state explicitly how assessments of need will (or have) led to changes in existing provision, or the development of new services. Where no changes are considered necessary, plans and reports should explain why, in reference to the assessment of needs which have been undertaken.

**(c) Promote the interests of looked after children and care leavers**

68. It is the duty of all corporate parents, in so far as it is consistent with the exercise of their other functions, to promote the interests of looked after children and care leavers (section 58(1)(c)). For the purposes of this Part of the Act, the phrase “promote the interests” should be interpreted as “pursuing advantage or benefit for’. Therefore this duty relates to the performance of actions which may advantage or benefit looked after children and care leavers.
69. The promotion of interests can take many forms, some of which will be more relevant to certain corporate parents (in view of their primary functions) than to others. Promotion of interests could include advocacy (on behalf of an individual or the population), positive action to widen access to education, leisure or employment opportunities (on behalf of an individual or the population), tackling discrimination and working to redress barriers to their positive wellbeing. A funding organisation could, for instance, ensure that resources are directed towards projects which involve looked after children and/or care leavers. On the basis of the ‘assessment of need’ (section 58(1)(b))

and 'being alert to matters which might adversely affect their wellbeing' (section 58(1)(a)), corporate parents should identify the most appropriate ways in which they can promote the interests of looked after children and care leavers. The approaches chosen (and the activities involved) should be clearly stated in corporate parenting plans and reports.

70. The duty to 'promote the interests' applies to the collective population of looked after children and care leavers and individual children and young people. Where relevant and appropriate (in view of their primary functions) corporate parents should actively seek to promote a child or young person's interests within the services they control. A local authority could, for instance, provide support to a young person eager to engage in creative activities. In a similar vein, a health board could facilitate a job shadowing experience with clinical professionals for a young person interested in pursuing a career in medicine.

71. It is important to note that this duty to promote the interests of looked after children and care leavers is linked in with the obligations set out in the United Nations Convention on the Rights of the Child (UNCRC), and the obligations set out in Part 1 (Rights of Children) of the Act.

**(d) Provide opportunities to participate in activities designed to promote wellbeing**

72. Every corporate parent must, in so far as it is consistent with the exercise of their other functions, seek to provide opportunities for looked after children and care leavers to participate in activities which are designed to promote their wellbeing (section 58(1)(d)). In practical terms this means that corporate parents must extend, develop or procure activities which offer looked after children and care leavers a chance to improve their wellbeing (as defined by the SHANARRI indicators). Importantly, it is about more than just 'safeguarding' their wellbeing, which may be fulfilled through regular business.

73. The aim of this duty is to secure a wide range of high-quality opportunities through which this specific group of young people do become successful

learners, confident individuals, responsible citizens and effective contributors to their communities. The first step in fulfilling this duty is, therefore, identifying which activities would be relevant, and seeking to understand how looked after children and care leavers can be supported to participate in them. Proper fulfilment of corporate parenting responsibilities (a) and (b), including, where relevant, direct consultation with children and young people, should provide much of the necessary information. In addition, corporate parents should be consider the role carers (including family members), professionals and other trusted adults will play, both in providing relevant information, and assisting in participation.

74. The next step is ensuring the identified activities are available to the eligible population. In some cases it may be necessary for corporate parents to develop or procure new activities (such as excursions for looked after children, or modern apprenticeship schemes for care leavers). But in many instances the corporate parent's role will be to make it possible for looked after children and care leavers to engage in existing activities. (For further information on supporting young people to access opportunities, please review the guidance for duty (e) below).
  
75. Schedule 4 includes a range of corporate parents, with varied functions. It is expected, therefore, that corporate parents will fulfil this duty in a variety of ways, making reference to both their function and focus. For example, corporate parents who do not provide services directly to children or young people are more restricted in the activities they can offer. All corporate parents are, however, employers, with the power to offer opportunities for work experience, training or employment. Staff could be encouraged and supported to become mentors for looked after children and care leavers. Other organisational functions, such as inspection or reviewing funding applications, could be adjusted to include the participation of the eligible population. Each of these examples would offer a looked after child or care leaver with an opportunity to improve their wellbeing.



76. Just as it is expected that the range of opportunities made available will vary among corporate parents, it is not the responsibility of every corporate parent to provide activities which address all wellbeing needs. Corporate parents with a particular focus (such as housing, education or health) may wish to tailor their activities to the relevant aspects of children's wellbeing. The breadth of corporate parents included on schedule 4 should ensure that, collectively, the varied needs of looked after children and care leavers are covered appropriately. However, all corporate parents remain under a duty to assess the needs of looked after children and care leavers (section 58(1)(b)), and to promote their interests (section 58(1)(c)), so where it is identified that insufficient opportunities are being made available, to either the eligible population or an individual, corporate parents are under a duty to make activities available (if appropriate for them to do so, in view of their other functions), or advocate for activities to be made available by other corporate parents.
77. Corporate parents must ensure that the opportunities provided are not one-off chances. As far as it is practical, looked after children and young people must have multiple opportunities to participate in activities, and not be penalised if they are unable to, or choose not to. For instance, if a young person does not take up a modern apprenticeship with a corporate parent, they should not be excluded from applying again in the following year.
78. The phrase 'seek to provide' means that corporate parents must invest in making children and young people aware of the activities available, and then support them to do so. It will not be sufficient to simply make opportunities available. Corporate parenting plans and reports should be explicit about how the corporate parent (or group of corporate parents) informed and enabled looked after children and care leavers to participate in the activities they made available. (Further information on supporting young people to access opportunities is included in the guidance for duty (e), immediately below).

**(e) Actions to help eligible children and young people access opportunities and make use of services**

79. Every corporate parent, in so far as it is consistent with the exercise of its other functions, must take such action as it considers appropriate to help looked after children and young people access the opportunities it provides (under duty (d) above) and to make use of the services and support which it provides (section 58(1)(e)).
80. Looked after children and care leavers face many barriers to their participation in activities and engagement with services and support. Common practical barriers can include limited access to transport and finances, changes of residence, childcare and other caring responsibilities, low levels of numeracy and literacy, and socially isolated carers who lack in confidence. Children's mental and physical disabilities may also limit opportunities to participation. Considerable emotional barriers also need to be taken into account, including unresolved trauma, fear of failure, loss and rejection, and problems related to drug and alcohol misuse. Engagement with children and young people (whether undertaken directly or indirectly) combined with a wider assessment of needs, and consideration of matters which might adversely affect wellbeing, should provide corporate parents with an understanding of the barriers faced by this population. Corporate parents must then identify and implement such actions as it considers appropriate to help looked after children and care leavers overcome the barriers, so that they can benefit from the opportunities, services and support available to them. The appropriateness of action will depend on children and young people's right to privacy, corporate parents' duty to share information responsibly, and considerations about the risk of stigmatising children, practicality and financial viability.
81. A key part of this duty is keeping eligible children and young people informed of the opportunities, services and support available to them. For all corporate parents this will require close cooperation with local authorities, as these are likely to have the most direct and regular contact with looked after children, care leavers and carers. Corporate parents may also wish to build links with

private and third sector organisations providing care and support to the eligible population. However, corporate parents should also put in place their own systems for informing the eligible population. Such systems could include direct interaction, designated staff, publications, websites and social media. A corporate parent's other functions, and the opportunities, services and support they provide to the eligible population, should determine which approach is most suitable.

82. Corporate parents should give consideration to the role families, carers and other trusted adults (including professionals) will play in enabling children and young people to access opportunities. Not only will these individuals be a valuable source of information about why children and young people experience difficulty engaging with a service or taking up an opportunity, they will also be important source of support, helping to facilitate a child or young person's engagement.
  
83. Where barriers to participation in activities or engagement with support have been identified, this duty requires corporate parents to take such action as it considers appropriate to address them. In the case of limited access to transport, for instance, appropriate action may be to organise for free public transport, or to agree start and finish times which fit around the individual's availability. Where the barriers are primarily emotional, appropriate action may be to offer a mentor, or to structure the activity in such a way as to minimise risk. For those corporate parents who will offer only limited opportunities to looked after children and care leavers, and who do not provide services or support directly, there is still an important role in eliminating barriers to participation in all areas of daily life, including social, cultural and educational. All corporate parents, regardless of their other functions, can play a role in improving access to opportunities, services and support; corporate parenting plans and reports should state clearly what actions the corporate parent (or group of corporate parents) have taken to fulfil this duty.

**(f) Actions to improve the way in which it exercises its functions in relation to looked after children and young people**

84. A corporate parent must, in so far as it is consistent with the exercise of its other functions, take such actions as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to looked after children and care leavers (section 58(1)(f)). This means that all corporate parents should keep under review their performance with respect to fulfilling their corporate parenting responsibilities, and where improvements are identified (such as increasing the range or enhancing the quality of wellbeing promoting activities) appropriate action must be taken to implement them. The appropriateness of action will depend on children and young people's right to privacy, corporate parents' duty to share information responsibly, and considerations about the risk of stigmatising children and the sustainability of improvements.
85. Corporate parenting plans should be clear about how the process of monitoring and review will be undertaken. Corporate parenting reports should include the conclusions of the review, details of the actions taken in response, and if certain actions have not been taken, clear explanations why.
86. For those corporate parents who do not provide services to children and young people directly, the process of review, and any actions identified, will be restricted to assessing performance in respect of fulfilling their corporate parenting responsibilities (such as keeping 'alert to matters which affect wellbeing' or providing opportunities to promote wellbeing). However, for corporate parents who do provide services to children and young people directly, the process of review and improvement should encompass all their relevant functions. For example, a local authority or Health Board should review the performance of all the services they make available to children and young people, on the basis that these are services and support which may be used by looked after children and care leavers.

## **Consistent with the proper exercise of other functions**

87. Section 58 of the Act states that it is the duty of every corporate parent to fulfil their corporate parenting responsibilities ‘in so far as consistent with the proper exercise of its other functions’. This means that corporate parenting responsibilities (section 58) should be fulfilled within the parameters afforded by a corporate parent’s primary functions, and the structure it maintains to support these. It is not the purpose of Part 9 to re-orientate organisations away from their other functions. If a corporate parent does not provide services directly to children or young people, Part 9 does not oblige them to establish them.
88. The purpose of Part 9 is to establish a common understanding of the principles and duties which constitute corporate parenting, and to oblige a range of publicly funded bodies to consider what more they each can do to improve the lives of looked after children and care leavers. Part 9 does aim to improve the availability of opportunities, services and support for looked after children and care leavers, but the expectation is that this will be done through the collective action of corporate parents, each playing their own distinct role.
89. Every corporate parent in schedule 4 has a role in improving the wellbeing of looked after children and care leavers, and the first and second corporate parenting responsibilities (‘to be alert to matters’ and ‘to assess the needs’) are, in part, designed to ensure organisations identify that role. At a minimum all corporate parents should be able to identify activities which help to promote wellbeing (such as offering education, training and employment opportunities within the organisation) and take steps to promote looked after children and care leaver interests in whatever area of public policy the corporate parent operates in. However, in view of the varied functions of corporate parents, it is expected that approaches to ‘corporate parenting’ (as set out in section 58 of the Act) will vary accordingly. This is in the interests of looked after children and care leavers, whose needs vary widely.

90. The Practice Notes which accompany this guidance provide detail on how individual or groups of corporate parents can fulfil their duties within the parameters prescribed by their other functions.

### **Modifications to the corporate parenting responsibilities**

91. Scottish Ministers may, by order, modify the list of corporate parenting responsibilities so as to confer, remove or vary a duty on a particular corporate parent, corporate parents of particular description, or all corporate parents (section 58(2)).
92. Ministerial Orders are Scottish Statutory Instruments laid before the Scottish Parliament. Any order made under section 58(2) would be subject to an affirmative parliamentary procedure, and therefore receive a level of parliamentary scrutiny.

## SECTION 59: PLANNING BY CORPORATE PARENTS

93. Under section 59 a corporate parent must prepare, keep under review, and publish a Corporate Parenting Plan. This plan must set out how the corporate parent proposes to fulfil its corporate parenting responsibilities (as set out in section 58 of the Act).
94. The format of a corporate parenting plan is not prescribed in the Act or this guidance. However the content of the plan must include information on how the corporate parent (or group of corporate parents if a joint plan) will:
- Be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom corporate parenting applies.
  - Assess the needs of those children and young people for the services and support they provide.
  - Promote the interests of those children and young people.
  - Provide those children and young people with opportunities to participate in activities designed to promote their wellbeing.
  - Take such action as it considers appropriate to help those children and young people to (i) access the opportunities it provides, and (ii) make use of services, and access support, which it provides.
  - Take such action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to the children and young people to whom corporate parenting applies.
95. These corporate parenting duties apply equally to all looked after children and care leavers. Due to the wide range of ages and placement types experienced by the eligible population, corporate parents will need to consider how the wellbeing needs of the whole population can be met. In preparing a corporate parenting plan it is recommended that details are given, where appropriate, about how the corporate parent (or group of corporate parents if a joint plan) will fulfil their responsibilities in respect to:

- the different ages (and stages of development) of looked after children;
- the different genders;
- the different placement types in which looked after children and care leavers live;
- looked after children and care leavers with disabilities;
- the different cultural and religious backgrounds of looked after children and care leavers.

96. Where appropriate, corporate parents should make a particular effort to tailor their activities to younger children (0 – 11) and those who live at home or with kinship carers. Traditionally these groups have not enjoyed the same benefits from corporate parenting as others. To ensure the corporate parenting duties are fulfilled equally for all children and young people, it is recommended that corporate parents consider how they will engage and interact with children’s carers. These adults will play a critical role in keeping corporate parents alert to matters affecting the wellbeing of the eligible population, and enabling children and young people to participate in opportunities, and access services and support.
97. It is also recommended that corporate parenting plans include details of any planned collaboration between corporate parents. Corporate parents are under a duty to collaborate with each other, in so far as it is reasonably practical, when exercising their corporate parenting duties; this includes, if appropriate, the development of a joint-corporate parenting plan. (For further details on the duty to work collaboratively, please see the relevant chapter below.)
98. A corporate parent (or group of corporate parents) must keep their plan under review. The purpose of this review should be to (a) establish if the plan is being delivered, and (b) identify ways in which the corporate parent(s) may improve the way it exercises its corporate parenting functions. A corporate parent must put in place systems to regularly collect and analyse information relating to its performance. It is recommended that all corporate parents set clear objectives for the duration of the plan, on which their performance will be measured. In



respect to the opportunities, services and supports which may be provided, corporate parents should pay close attention to the quality of what they are providing, not just the volume and range. This will involve seeking and analysing feedback from children and young people who participated in activities or accessed services.

99. The Act does not prescribe a timescale for reviewing the corporate parenting plan. The duty is to 'keep its plan under review', so all corporate parents should review their plan regularly (e.g. bi-annually, annually), assessing their performance when relevant information is available. However, at a minimum, prior to publishing a corporate parenting report (section 60) or a revising a corporate parenting plan, corporate parents should undertake a review (of their performance). The findings of this review should be published in the corporate parenting report, and used to update the corporate parenting plan. It is recommended that the process of reviewing, reporting on, and updating the plan, takes place at least once every three years. (For further details on reports by corporate parents, please see the relevant chapter below.)
100. Section 59(2) requires a corporate parent, where appropriate, to consult with other corporate parents before preparing or revising their corporate parenting plan. (For further details on collaborative working among corporate parents, please see the relevant chapter below.) Corporate parents must also consult with such other persons as they consider appropriate. In every case the term 'appropriate person' would include the children and young people to whom Part 9 applies. While it may not be possible or desirable for every corporate parent to consult with the eligible population directly, every corporate parenting plan should take account of their views and aspirations. Those corporate parents who do not engage with looked after children and care leavers directly should collaborate closely with corporate parents who do, or consult other organisations who can provide relevant information and insight.
101. Section 59(3) requires a corporate parent to publish their plan, and any revised plan, in such manner as it considers appropriate. The legislation also emphasises that plans may be published together with, or as part of, any other

plan or document. This guidance has already recommended that the plan should be reviewed and updated at least every three years. This updated plan must then be published in a document which is easily accessible to both the eligible population and general public. Accessibility relates to both the availability of the document (i.e. published online), and its format and language.

102. Plans may be published alone, or as part of another document. Corporate parents choosing to publish their plan as part of another document should carefully consider the relevance and accessibility of the other document. In view of the duty on all corporate parents to publish a report on how they exercised their corporate parenting functions, it is recommended that plans and reports are published together, in the same document, to make it as easy as possible for children and young people to access them. For some corporate parents it may be appropriate to include their plans in the wider 'Children's Services Plan', prepared under Part 3 of the Act. However, corporate parents choosing to do so must ensure that this document meets the necessary requirements in terms of accessibility for looked after children and care leavers. Where a group of corporate parents choose to publish a joint plan, regardless of the format they must ensure the individual contributions of each corporate parent are clearly detailed.

## **SECTION 60: COLLABORATIVE WORKING AMONG CORPORATE PARENTS**

103. Section 60 requires all corporate parents to collaborate with each other, in so far as is reasonably practicable, when exercising their corporate parenting duties, where they consider that doing so would safeguard or promote the wellbeing of children and young people to whom Part 9 of the Act applies.

104. Collaboration may involve (but is not restricted to):

- (a) sharing information,
- (b) providing advice or assistance,
- (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
- (d) sharing responsibility for action,
- (e) funding activities jointly,
- (f) exercising functions under this Part jointly (for example, by publishing a joint plan or joint report).

105. For corporate parenting to be successful a measure of collaborative working between corporate parents will be necessary. Whether it is in preparation of a corporate parenting plan, or in the delivery of activity, many corporate parents will need the support of others if they are to fulfil their duties effectively for the whole eligible population. This is a reflection of the varied functions of corporate parents. For corporate parents with no direct contact to children and young people, collaboration may be necessary to fulfil their duties to “be alert to matters which might affect wellbeing” (section 58(1)(a)), and to “assess their needs” (section 58(1)(b)), among others. For some corporate parents collaboration may offer the means by which they can ‘promote the interests’ of looked after children and care leavers (section 58(1)(c)) or take appropriate action to help eligible young people to access the opportunities, services and support provided (section 58(1)(e)).

106. In the interests of the eligible population, corporate parents should actively consider funding activities jointly. By combining resources corporate parents

may be able to offer a wider range of quality opportunities, services and supports for looked after children and young people. While the pressures on an organisation's resources are acknowledged, it will not be acceptable for a corporate parent to claim resource constraints as the reason why an opportunity, service or support cannot be provided, without evidence that they have comprehensively explored the opportunities for collaboration (including joint funding) with other corporate parents.

107. Effective collaboration will depend, in part, on the sharing of information. In most cases it should be possible to share relevant information without requiring the disclosure of personal information. When corporate parents wish to disseminate information about the activities and support they provide, for example, they should collaborate with those corporate parents (such as local authorities) who have direct contact with children and young people, and can distribute information on their behalf. Where the sharing of personal information is required in order to safeguard or promote the wellbeing of a child or young person, this should be done proportionately, and in compliance with the Data Protection Act 1998.<sup>9</sup>
108. Section 60 does not prescribe the format of collaborative working. Some corporate parents may wish to develop formal partnerships, pooling resources and expertise to fulfil their corporate parenting functions. Others may wish to use existing collaborative structures (such as Community Planning Partnerships); however existing structures may have limited memberships, so corporate parents choosing this options will need to consider how they also engage with corporate parents outside of these structures. For some corporate parents, in view of their other functions, collaborative working will only ever be appropriate on an ad hoc basis, and in a limited way. Ultimately it is the responsibility of each corporate parent to identify how and with whom they collaborate. Any collaboration should be recorded in the corporate parenting report. When no collaboration has taken place over the course of a corporate parenting report, an explanation should be provided.

---

<sup>9</sup> Guidance on the sharing of information is available on the Scottish Government's website: <http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright/information-sharing>

## SECTION 61: REPORTS BY CORPORATE PARENTS

109. Under section 61 a corporate parent must report on how it has exercised its corporate parenting responsibilities (section 58), its planning and collaborating functions under sections 59 and 60, and its other functions under Part 9. Corporate parenting reports may include information about standards of performance, and the outcomes achieved for looked after children and young people. Corporate parenting reports should be published in such manner as the corporate parent (or group of corporate parents if a joint report) consider appropriate; this could mean publishing the report alongside other reports or documents (such as the corporate parenting plan) or as part of other reports or documents (such as an Annual Report).
110. A corporate parenting report should be published at least once every three years. The process for preparing and publishing a corporate parenting report should be part of a coherent process of planning, review and reporting. The report should be linked to the objectives and activities detailed in the plan, providing an analysis of progress and identifying any actions which could improve the way in which the corporate parent (or group of corporate parents) exercises its functions. As with the plan, the corporate parenting report should be easily accessible to both the eligible population and general public. Accessibility relates to both the availability of the document (i.e. published online), and its format and language.
111. The content of corporate parenting reports will be shaped by the content of corporate parenting plans. At a minimum, every corporate parenting report must include information on:
- How the corporate parent (or group of corporate parents) have exercised the duties set out in section 58 (the ‘corporate parenting responsibilities’)
  - How the corporate parent (or group of corporate parents) have fulfilled their functions in respect to planning, collaborative working with other corporate parents, preparing reports and, where relevant, providing

information to Scottish Ministers and following directions issued by Scottish Ministers.

112. Within these sections, corporate parenting reports should detail the performance of corporate parents, including outcomes achieved. It will not be sufficient for corporate parenting reports to be narrative descriptions of activity. Corporate parenting reports must be based on data and analysis. As the guidance on corporate parenting plans stated, it is recommended that corporate parents set clear objectives, on which their performance can be measured and reported upon. Where relevant, such as fulfilment of the duty to provide activities to promote wellbeing, reviews of performance should consider the quality of the opportunities provided, and not just the extent (i.e. total number) or range. The purpose of Part 9 is to safeguard and promote the wellbeing of looked after children and care leavers, so all corporate parenting reports should explain how individual corporate parents have contributed to this aim.
113. Within corporate parenting reports it will be particularly important to detail how the wellbeing needs of looked after children and care leavers were identified, and how opportunities, services and supports were developed or made accessible to the eligible population (within the parameters set by the corporate parent's other functions). If publishing a joint report, corporate parents should ensure that their specific contributions are clearly stated.
114. It is important to note that many corporate parents are subject to reporting requirements under other Parts of the Act (in particular 1 and 3) and other legislation (i.e. Equalities Act 2010). Corporate parents are encouraged to make the links between these separate reporting requirements, combining, where relevant, reports into a single publication. Effective collaborative working between corporate parents should identify opportunities to facilitate the process of reporting on a range of separate but interrelated areas. (For further information on Children's Services reporting, please the guidance on Part 3 of the Act (Children's Services Planning).)

115. Scottish Ministers are not corporate parents for the purposes of sections 61 - 64. This means they are exempt from this duty to report. However Scottish Ministers are subject to their own specific reporting duty, set out in section 65.

## **SECTION 62: DUTY TO PROVIDE INFORMATION TO SCOTTISH MINISTERS**

116. Under section 62 a corporate parent must provide Scottish Ministers with such information as they may reasonably require to determine:

- How the corporate parent has exercised its duties under section 58 (corporate parenting responsibilities).
- How the corporate parent has fulfilled its other functions under Part 9 (including planning, collaborative working and reporting).

117. The information required by Scottish Ministers will relate, in particular, to (a) standards of performance, in respect to the corporate parent's exercise of its functions, and (b) the outcomes achieved for the eligible population of children and young people.

118. Corporate parents may provide information to Scottish Ministers in any format which meets the requirements set out immediately above. However it is strongly recommended that corporate parenting reports include all the relevant information, and for these to be submitted to Scottish Ministers when information is requested. As Scottish Ministers are under a duty to report to the Scottish Parliament on how they have exercised their corporate parenting responsibilities at the end of each three year period (section 65), it is likely that requests for information will follow a similar schedule. Any corporate parent wanting to submit a corporate parenting report in response to a request for information will, therefore, need to have an up to date report published at least every three years. Please note that while it is likely that requests for information by Scottish Ministers will come every three years, Scottish Ministers are empowered to ask for relevant information at any time. Corporate parents should have suitable arrangements in place to generate the required information on request.

119. The duty to provide information to Scottish Ministers (section 62) provides a layer of accountability, through which the performance of corporate parents,



and the outcomes achieved, may be monitored. On the basis of the information provided, Scottish Ministers may take action to improve the way a corporate parent exercises its functions under Part 9 of the Act (such as issuing a direction under section 64 or updating guidance). However, it is important to note that any assessment of a corporate parent's performance in respect to section 58 (corporate parenting responsibilities) will be undertaken in reference to the corporate parent's other functions.

## SECTION 63: GUIDANCE ON CORPORATE PARENTING

120. A corporate parent must have regard to any guidance about corporate parenting issued by Scottish Ministers. Guidance may include advice or information about how a corporate parent should:

- Exercise their corporate parenting responsibilities;
- Promote awareness of their corporate parenting responsibilities;
- Plan, collaborate or report (duties under sections 59, 60 and 61);
- Exercise other functions under Part 9 (including providing information to Scottish Ministers)

121. Guidance may also provide advice about the outcomes (for looked after children and care leavers) which corporate parents should seek to achieve. (For further detail please see the chapter on 'Outcomes from corporate parenting'.)

122. Before issuing or revising guidance, Scottish Ministers must consult with any corporate parent to whom it relates and any other persons as it considers appropriate.

123. This guidance document (Statutory Guidance on Part 9 (corporate parenting)) is issued under section 63. Every corporate parent (except for Scottish Ministers) must give regard to it. Only in exceptional circumstances, with good reason, may corporate parents deviate from this guidance.

## **SECTION 64: DIRECTIONS TO CORPORATE PARENTS**

124. A corporate parent must comply with any direction issued by Scottish Ministers. These directions can relate to how a corporate parent has fulfilled their duties under section 58 (corporate parenting responsibilities) and how they have exercised their other corporate parenting functions (i.e. planning, collaborating reporting, etc.) under Part 9 of the Act.
125. Directions may be issued under the powers provided to Scottish Ministers by section 64 of the Act. Before issuing, revising or revoking a direction, Scottish Ministers must consult with any corporate parent to whom it relates, and any other persons they consider appropriate.
126. Under section 56(4), the Commissioner for Children and Young People in Scotland (SCCYP) and a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005, are not corporate parents for the purposes of section 64. This means that they are not subject to the duty to comply with a direction issued by Scottish Ministers. However this exemption only applies to directions issued under section 64; relevant Ministerial Orders issued under sections 56, 57 and 58, and guidance issued under section 63, should be complied with in full.

## **SECTION 65: REPORTS BY SCOTTISH MINISTERS**

127. Scottish Ministers must, as soon as practicable after the end of each three year period, lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period. The first three year period begins on 1 April 2015.
128. The report presented by Scottish Ministers is likely to follow a similar format to that set out for other corporate parents (in the guidance on section 61 above). Content will include information about how Scottish Ministers have fulfilled their duties under section 58 (corporate parenting responsibilities) and other relevant duties (planning (section 59), collaborative working (section 60)). Scottish Ministers are not corporate parents for the purposes of sections 61 to 64.
129. The report presented by Scottish Ministers will include information about how all the directorates of the Scottish Government, and their Executive Agencies, have performed in respect to their corporate parenting duties over the three year period. It is on the basis of this report that the Scottish Parliament will hold Scottish Ministers to account.

## OUTCOMES FROM CORPORATE PARENTING

130. Under section 63 Scottish Ministers are empowered to issue guidance to corporate parents about the kind of outcomes (for the eligible population of children and young people) which should be achieved through corporate parenting (the proper fulfilment of all duties set out in Part 9).

131. This guidance recommends that every corporate parent considers, in the context of their primary functions, their contribution towards:

- Active participation in shaping services; include comment on families;
- Providing safe, secure, stable and nurturing homes for looked after children and care leavers;
- Enabling looked after children and care leavers to develop or maintain positive relationships with their family, friends, professionals and other trusted adults;
- Securing positive educational outcomes for looked after children and care leavers;
- Ensuring 'care' is an experience in which children are valued as individuals, and where support addresses their strengths as well as their needs;
- Ensuring physical or mental health concerns are identified early and addressed quickly;
- Increasing the number of care leavers in education, training and employment;
- Reducing the number of looked after children and care leavers who enter the youth and criminal justice systems.

132. The outcomes from corporate parenting adopted by each corporate parent should be identified through an assessment of need (a duty under section 58(1b)) and by remaining alert to matters which adversely affect the wellbeing of looked after children and care leavers (section 58(1b)). Critically, corporate parenting outcomes should be shaped through continual discussion and

engagement with children and young people. Meaningful dialogue is essential to effective corporate parenting. However, the level of consultation must be proportionate, and corporate parents should work collaboratively to minimise duplication, and to ensure all corporate parents have opportunities to fulfil their corporate parenting responsibilities (section 58).

133. The corporate parenting outcomes chosen by each corporate parent will also be shaped by their other functions, and the public policy area in which they primarily operate. For example, a corporate parent whose focus is related to health may choose to concentrate their efforts on the relevant aspects of child wellbeing, such as 'healthy', 'active' and 'nurtured'.

## REFERENCES TO 'WELLBEING' IN PART 9

134. Section 58 (1)(a) of the Act requires that every corporate parent, in so far as consistent with the proper exercise of its other functions, be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom Part 9 applies. Section 58 (1)(d) states that another duty of every corporate parent is to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing. Section 58 therefore requires each corporate parent to have cognisance of 'wellbeing', as defined by section 96 of the Act.
135. The Act also specifies that corporate parents must, in so far as reasonably practicable, collaborate with each other when exercising their corporate parenting responsibilities and other functions under Part 9 of the Act, where they consider doing so would safeguard or promote the wellbeing of children and young people to whom Part 9 applies (Section 60(1)). Section 60(2) specifies the form that this collaboration may take.
136. The provisions in Part 9, and in particular, those contained in section 59, are thematically linked to children's services planning as covered in Part 3 of the Act. Corporate parents listed in schedule 4 should ensure they create a culture where wellbeing is understood in the context of sections 95 and 96, specifically in relation to looked after children and care leavers.

### **Assessment of wellbeing**

137. Section 96(2) describes the wellbeing of children and young people in terms of eight indicators. These eight wellbeing indicators are sometimes known collectively by the acronym 'SHANARRI'. For further details on the SHANARRI indicators please review the chapter 'Definition of Terms' above.
138. Whenever wellbeing is assessed in relation to corporate parenting, it should be done in relation to the eight SHANARRI indicators. Corporate parenting actions should be directed towards safeguarding or promoting a child or young

person's wellbeing in any one or number of these areas. An explanation of how to assess wellbeing using the SHANARRI indicators can be found on the [GIRFEC pages of the Scottish Government](#), and in the [GIRFEC National Practice Guide](#) (2012). Further guidance on wellbeing (as set out in section 96) will be issued by the Scottish Government; corporate parents should give regard to any such guidance when assessing the wellbeing of a looked after child or care leaver.



## **INTERACTION BETWEEN CORPORATE PARENTS AND THOSE WITH PARENTING RIGHTS AND RESPONSIBILITIES**

139. In fulfilling their duties under Part 9 of the Act, corporate parents should consider how they interact with individuals who have parenting rights and responsibilities in respect to a child or young person.
140. Although children can become ‘looked after’ through a variety of legal routes (and for a number of reasons), in the majority of cases birth parents will retain parental rights and responsibilities for their children, in partnership with the state. Corporate parents should recognise the existence of certain legal rights of birth parents and children under Scots law, and, where appropriate, consider how they will interact with birth parents and families.
141. When a child becomes looked after as a result of a voluntary agreement (under section 25 of the Children (Scotland) Act 1995) parents retain their parental responsibilities and rights in respect of their child. Parental responsibilities and rights are set out in sections 1 and 2 of the [Children \(Scotland\) Act 1995](#).
142. For looked after children who are subject to a Compulsory Supervision Order (CSO) made by a Children’s Hearing, parental rights and responsibilities are also maintained, but are limited in so far as it is necessary to give effect to the CSO. For example, where a condition of residence with foster carers or in a residential unit is attached to a CSO, the local authority assumes the right to determine with whom the child is placed, to the extent of the terms of the CSO. The parents’ specific right under section 2(1)(a) of the Children (Scotland) Act 1995, “to have the child living with him or otherwise to regulate the child’s residence” is restricted accordingly.
143. When a Permanence Order is in place, the Order will reallocate certain parental rights and responsibilities to the local authority (always including the right to regulate residence). It is necessary to look at the terms of a Permanence Order to see how the court has allocated parental rights and responsibilities in any particular case. It follows that, for every looked after child, corporate parents

need to recognise the responsibilities and rights the parent (or other family carer) retains in respect of their child. There must be recognition of the role of parents and carers, corporate parents should work together with primary carers to meet the needs and rights of the child.

## COMPLAINTS AND DISPUTES

144. To fulfil the duty to be alert to matters which, or which might, adversely affect the wellbeing of looked after children and young people (section 58(1)(a)), and to identify actions necessary for improving the way it exercises its corporate parenting functions, every corporate parent should have a procedure through which looked after children and care leavers can raise a concern or make a complaint. These concerns or complaints may relate to the quality, or absence, of an opportunity, service or support, or other aspects of how a corporate parent has fulfilled their duties under Part 9.
145. Wherever practical and appropriate corporate parents should try to resolve a child or young person's complaint or concern through informal processes. This will rely on children and young people (with the support of their carers or other advocates) to engage in a dialogue with representatives from the corporate parent.
146. Where dialogue has not been successful, formal complaint procedure may be necessary. The Act does not prescribe a specific form of complaint procedure for corporate parents; where appropriate, corporate parents should use procedures already in place. Corporate parents should also ensure that all looked after children and care leavers are aware of the available complaint procedure(s), and that the procedures are accessible (i.e. in an age appropriate format) for the eligible population. For some children and young people (including younger children and those with communication difficulties) corporate parents should make provision for their views to be represented by carers, trusted adults and independent advocates.
147. Where a dispute occurs between corporate parents, resolution should be sought through dialogue and collaboration. This guidance has, where relevant, stated the lines of responsibility and accountability in respect to the delivery of services and support for looked after children and young people. However it is the responsibility of all corporate parents to resolve, proactively and in

collaboration, any disputes over how activities (in the exercise of Part 9 functions) are fulfilled or provided. Where it is not possible to resolve a dispute between corporate parents through collaboration, further guidance or direction may be sought from Scottish Ministers.

148. For those corporate parents involved in delivering functions under Part 3 (Children's Services Planning) and Part 4 (Named Person) of the Act, regard should be given to the relevant guidance made available from the Scottish Government.

## **ENFORCEMENT OF PART 9 (CORPORATE PARENTING)**

149. Part 9 (corporate parenting) comes into force on 1 April 2015. Corporate parent's compliance with the legislation will be monitored through the review of corporate parenting reports (by Scottish Ministers), independent inspection mechanisms (such as those provided by the Care Inspectorate, Education Scotland and Healthcare Improvement Scotland) and corporate parent's existing governance arrangements (such as councillors, parliamentarians and non-executive board members).
150. Scottish Ministers have the power, under section 64, to issue directions to corporate parents in relation how they exercise their corporate parenting responsibilities and other functions under Part 9 of the Act. (Please see chapter on section 64 above.) The corporate parents to whom the direction applies must comply with it. The issuing of directions by Scottish Ministers may be used, where necessary, to ensure compliance with Part 9 of the Act.

## APPENDIX A: LEGAL FRAMEWORK

151. The [Children and Young People \(Scotland\) Act 2014](#) is a significant piece of legislation, introducing major changes to planning, operation and delivery of children's services in Scotland. The Act is particularly important for looked after children and care leavers, putting 'corporate parenting' (Part 9) onto a statutory footing, extending 'aftercare' support to a wider population of care leavers (Part 10) and introducing a new provision of 'continuing care' for some care leavers (Part 11). The Act also requires all adoption agencies to use Scotland's Adoption Register (Part 14), and amends other legislation to ensure assessments consider a child or young person's 'wellbeing' (section 95).
152. However it is important to view the Act in the wider legislative context, for the Act in places adds to or amends previous statutes, rather than replacing them. The [Children \(Scotland\) Act 1995](#) (the 1995 Act) continues to provide the legal framework for 'looked after children' and 'care leavers' in Scotland. The duties, powers and responsibilities of local authorities are set out across sections 17 - 31 of the 1995 Act (as amended by subsequent legislation). Section 21 sets out the co-operation required from other bodies, to enable the local authority to exercise their functions. The accompanying guidance, [Children \(Scotland\) Act 1995 Guidance and Regulations Volume 2: Children Looked After by Local Authorities](#) (published 1997) provides a detailed and comprehensive overview on how local authorities and other public bodies should meet these requirements.
153. The [Regulation of Care \(Scotland\) Act 2001](#) amends section 29 ('Aftercare') of the 1995 Act, requiring local authorities to conduct an assessment of looked after children who they have a duty or power to advise, support or assist. It also requires local authorities to establish a procedure for considering representations, including complaints, on the discharge of their 'aftercare' duties. The [Support and Assistance of Young People Leaving Care \(Scotland\) Regulations 2003](#) describes the processes (such as completion and review of the 'pathway plan') which local authorities must follow when preparing a looked young person who is leaving care. Detailed guidance on these rules is available

[Supporting Young People Leaving Care in Scotland: Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities](#)

(March 2004). The Scottish Government is amending this guidance to reflect the changes set out in Parts 9, 10 & 11 of the Children and Young People (Scotland) Act 2014.

154. The [Adoption and Children \(Scotland\) Act 2007](#) updated the adoption process in Scotland, and introduced the Permanence Order. Detailed guidance on these changes is available: [Guidance on the Looked After Children \(Scotland\) Regulations 2009 and Adoption and Children \(Scotland\) Act 2007](#) (published in March 2011).
155. The [Looked After Children \(Scotland\) Regulations 2009](#) prescribes a child or young person's journey into care and through care, differentiated by the placement type (i.e. 'at home', kinship, residential, etc.). The regulations require all looked after children to have a 'child's plan' (sometimes referred to in practice as a 'care plan'), and for children to be actively involved (depending on their age and maturity) in the development and monitoring of that plan. Detailed guidance on these processes is available: [Guidance on the Looked After Children \(Scotland\) Regulations 2009 and Adoption and Children \(Scotland\) Act 2007](#) (published in March 2011).
156. The [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (as amended by an act of the same title passed in 2009) provides the legal framework for supporting children and young people (including their families) who require additional services to make the most of their school education. Under this legislation all looked after children are automatically deemed to have additional support needs, unless the education authority has assessed the child or young person as not needing additional support to benefit from school education. In addition, an education authority must consider whether every looked after child (for whose school education they are responsible) requires a Coordinated Support Plan. Independent advice and guidance on this legislation is available from [Enquire](#).

157. The [Children's Hearings \(Scotland\) Act 2011](#) made significant changes to the Children's Hearings system, introducing a central authority (Children's Hearings Scotland) and a National Convener. The role of the Scottish Children's Reporter Administration (SCRA) in support of children's hearings was amended, and changes were also made to the legal orders available to a Children's Hearing. Guidance on these changes is available in the [Training Resource Manual \(Volume 1\) Legislation and Procedures](#) (published in March 2013).

158. Other legislation relevant to looked after children and care leavers in Scotland includes:

- [Social Work \(Scotland\) Act 1968](#)
- [Human Rights Act 1998](#)
- [Data Protection Act 1998](#)
- [Children \(Leaving Care\) Act 2000](#)
- [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)
- [Local Government in Scotland Act 2003](#)
- [Protection of Vulnerable Groups \(Scotland\) Act 2007](#)
- [Equality Act 2010](#)
- [Social Care \(Self-Directed Support\) \(Scotland\) 2013](#)
- [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#)



## APPENDIX B: POLICY CONTEXT

159. From the 1990s there has been a growing interest, across the United Kingdom, in the concept of ‘corporate parenting’ for looked after children and care leavers’. This has been in recognition of the persistently poor outcomes experienced by this group, and the legal and moral responsibilities of the state to support children who have experienced adversity. This includes enhancing children's quality of life, as well as simply keeping them safe.
160. Given real impetus by the UK government’s *Quality Protects* programme (launched in 1998), corporate parenting began to take on a more defined shape, with policy and guidance prescribing certain actions for public bodies beyond local authority children’s services. The *Every Child Matters* agenda, in particular, emphasised the obligation of public bodies to work together to improve outcomes for looked after children and care leavers, on the basis of their shared duties as ‘corporate parents’. But while documents such as *If this were my child - A guide for councillors*<sup>10</sup> (2003) and *Learning with Care* (2001)<sup>11</sup> were made increasingly available, a 2006 report from the Social Work Inspection Agency found that, in Scotland, the concept was still not sufficiently understood or applied, and that as a result children were not enjoying the benefits that corporate parenting promised.<sup>12</sup>
161. In 2007 the Scottish Government published the conclusions of a Ministerial Working Group which had been set up to examine how to improve the educational outcomes of looked after children. In [We Can and Must Do Better](#), this working group highlighted the critical importance of the corporate parent role: ‘It is essential that the individuals and agencies who form the corporate

---

<sup>10</sup> Department for Education and Skills (2003) [If this were my child ... A Councillor's guide to being a good corporate parent](#), London

<sup>11</sup> Her Majesty’s Inspectorate of Education & Social Work Services Inspectorate (2003) [Learning with Care](#), Glasgow

<sup>12</sup> Social Work Inspection Agency (2006) [Extraordinary Lives: Creating a positive future for looked after children and young people in Scotland](#), Edinburgh, p.96

parent for Scotland's looked after children and young people are more aware and alert to their children's needs and work together to deliver for them'.<sup>13</sup>

162. Responding to the report's recommendations, the Scottish Government and Scottish local authorities published [\*These Are Our Bairns: A guide for community planning partnerships on being a good corporate parent\*](#) (2008). This provided corporate parents with a guide to their roles and responsibilities, and highlighted the opportunities for improving children's wellbeing within the many services delivered by community planning partners, and the wider community. Councils, in particular, have successfully used this guidance to develop local action plans and protocols, bringing looked after children and young people into conversations with elected members and senior managers to consider how services can be proactive, and make a difference in children's lives.
163. Subsequent developments in Scotland served to underline the importance of corporate parenting across schools and health. The 2009 amendment of the Education (Additional Support for Learning) Scotland Act 2004, which required education authorities to consider all looked after children as having additional support needs unless assessed otherwise, attempts to address the fact that this population often has a disrupted educational experience and significant additional needs, but not always the advocates to obtain the necessary additional support. Also in 2009, the Chief Executives of Scotland's NHS Boards received a letter from the Scottish Government's Director of Healthcare Policy and Strategy, requiring each health board to undertake a number of specific actions in relation to looked after children.<sup>14</sup> In 2014 the Scottish Government published [\*Guidance on Health Assessments for Looked after Children and Young People\*](#), for all NHS Health Boards. This stated clearly that: 'as a corporate parent, NHS Boards should view the looked after children's health assessment as an opportunity to assess an individual's overall health

---

<sup>13</sup> Scottish Government (January 2007) [\*Looked After Children and Young People: We Can and Must Do Better\*](#), Edinburgh, p.7

<sup>14</sup> Scottish Government (2009) [\*CEL 16 \(2009\)\*](#), Edinburgh

and wellbeing, including behavioural and emotional development and risk taking behaviour'.<sup>15</sup>

164. The Children and Young People (Scotland) Act 2014, and this accompanying guidance, represent the next step in the ongoing development of corporate parenting in Scotland. The range of corporate parents has been extended and the duties formalised, but the objective remains the same: to take whatever actions are necessary to promote and support the physical, emotional, spiritual, social and cognitive development of a looked after child or care leaver, from their infancy through to adulthood.

---

<sup>15</sup> Scottish Government (2014) [Guidance on Health Assessment for Looked After Children and Young People in Scotland](#), Edinburgh, p.1

## APPENDIX C: FURTHER INFORMATION

165. For further information on corporate parenting, looked after children, care leavers, and children's rights, please review the resources listed below.

HMIe (2009) [How Good is Our Corporate Parenting: A self-evaluation guide](http://www.educationscotland.gov.uk/Images/ischgiocp_tcm4-712894.pdf) [www.educationscotland.gov.uk/Images/ischgiocp\_tcm4-712894.pdf]

Improvement Service (2010) [Elected Member Briefing Note 2: Corporate Parenting](http://www.improvementservice.org.uk/library/download-document/2902-elected-member-briefing-note-no.-2-corporate-parenting/) [www.improvementservice.org.uk/library/download-document/2902-elected-member-briefing-note-no.-2-corporate-parenting/]

Local Government Association (2012) [Council Resource Pack](http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10180/3574530/PUBLICATION) [www.local.gov.uk/web/guest/publications/-/journal\_content/56/10180/3574530/PUBLICATION]

National Care Advisory Service (online) [Corporate Parenting](http://leavingcare.org/corporateparenting_home) [http://leavingcare.org/corporateparenting\_home]

National Children's Bureau (online) [Corporate Parenting Tool Kit](http://www.ncb.org.uk/corporate-parenting/resources/corporate-parenting-tool-kit) [www.ncb.org.uk/corporate-parenting/resources/corporate-parenting-tool-kit]

Ofsted (2012) [Good Practice Resource: Developing effective corporate parenting](http://www.ofsted.gov.uk/resources/good-practice-resource-developing-effective-corporate-parenting-london-borough-of-lambeth) [www.ofsted.gov.uk/resources/good-practice-resource-developing-effective-corporate-parenting-london-borough-of-lambeth]

Scotland's Commissioner for Children and Young People (online) [Participation](http://www.sccyp.org.uk/publications/participation) [www.sccyp.org.uk/publications/participation] & [Rights](http://www.sccyp.org.uk/rights) [www.sccyp.org.uk/rights]

Scottish Government (online) [Corporate Parenting](#)  
[www.scotland.gov.uk/Topics/People/Young-  
People/protecting/lac/lacimprovingoutcomes/corporate-parenting]

Scottish Government & Centre for Excellence for Looked After Children in  
Scotland (online) [We Can and Must Do Better: Resource Bank](#)  
[www.wecanandmustdobetter.org/]

Scottish Government & Convention of Scottish Local Authorities (2008)  
[These Are Our Bairns: A guide for community planning partnerships  
on being a good corporate parent](#)  
[www.scotland.gov.uk/Publications/2008/08/29115839/0]

UNICEF (online) [Convention on the Rights of the Child](#)  
[www.unicef.org/crc/]

United Nations Committee on the Rights of the Children (2013) [General  
comment No.14 \(2013\) on the right of the child to have his or her  
best interests taken as a primary consideration \(art.3, para 1\)](#)  
[www2.ohchr.org/English/bodies/crc/docs/GC/CRC\_C\_GC\_14\_ENG.pdf]

Who Cares? Scotland (online) [Corporate Parenting](#)  
[www.corporateparenting.co.uk]

166. There are also organisations available that may be able to assist corporate parents with implementation of Part 9. The names and websites of these organisations are listed below.

[CEL CIS](#) (Centre for Excellence for Looked After Children in Scotland)  
[www.celcis.org]

[SCCYP](#) (Scotland's Commissioner for Children and Young People)  
[www.sccyp.org.uk]

[Who Cares? Scotland](#) [www.whocaresScotland.org]

## **Responding to this consultation**

We are inviting written responses to this consultation by 2 March 2015.  
Please send your responses with the completed Respondent Information Form to:

[mailto:Looked\\_After\\_Children@scotland.gsi.gov.uk](mailto:Looked_After_Children@scotland.gsi.gov.uk) or

Carolyn Younie

Looked After Children Unit

Scottish Government

Victoria Quay

Edinburgh

EH6 6QQ

If you have any questions, contact Carolyn Younie on 0131 2447445 and  
[carolyn.younie@scotland.gsi.gov.uk](mailto:carolyn.younie@scotland.gsi.gov.uk).

## **Handling your response**

We need to know how to handle your response and in particular, whether you are happy for it to be made public. The attached Respondent Information Form will ensure that we treat your response appropriately. If you ask for your response not to be published we treat it as confidential.

You should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and must consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us achieve a final version of the Statutory Guidance, which will be completed before the Children and Young People (Scotland) Act comes into force on 1 April 2015.

If you have given permission for your response to be made public and after we have checked that it contains no potentially defamatory material, your response will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages in 2015. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact details above.

## Consultation Questions

The 'corporate parenting responsibilities' represent the core element of Part 9. Taken together the six duties provide a working definition of corporate parenting, and it is through a corporate parent's efforts to fulfil these duties that they will safeguard and promote the wellbeing of looked after children and care leavers.

1) Do you feel this draft guidance provides clarity about what corporate parenting is, and how corporate parents are supposed to exercise their duties?

If not why not?

If so, which sections, and why?

For the purposes of this guidance the term corporate parenting is defined as:  
*"An organisation's performance of actions necessary to promote and support the wellbeing of a looked after child or care leaver, including their physical, emotional, spiritual, social and cognitive development"*

2) Do you agree with the definition of corporate parenting?

If not, what would you change and why?

Section 96(2) describes the wellbeing of children and young people in terms of eight indicators. These eight wellbeing indicators are sometimes known collectively by the acronym 'SHANARRI'. Whenever wellbeing is assessed in relation to corporate parenting, it should be done in relation to the eight SHANARRI indicators. Corporate parenting actions should be directed towards safeguarding or promoting a child or young person's wellbeing in any one or number of these areas.

3) Is the draft guidance clear about how different corporate parents, in view of their other functions, should assess the wellbeing of looked children and care leavers?

4) Are there sections of the guidance which you feel need to be expanded?

5) Do you have any other comments?

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

**1. Name/Organisation**

**Organisation Name**

**Title** Mr  Ms  Mrs  Miss  Dr  **Please tick as appropriate**

**Surname**

**Forename**

**2. Postal Address**

<b>Postcode</b>	<b>Phone</b>	<b>Email</b>

**3. Permissions - I am responding as...**

**Individual** / **Group/Organisation**  
 *Please tick as appropriate*

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

**Please tick as appropriate**  
 **Yes**    **No**

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?



**Please tick ONE of the following boxes**

**Please tick as appropriate**

Yes  No

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

Yes

No

**4. Additional information – I am responding as:**

**Please tick as appropriate**

<b>1. NHS Health Board</b>	
<b>2. Other NHS Organisation</b>	
<b>3. General Practitioner</b>	
<b>4. Local Authority</b>	
<b>5. Other statutory organisation</b>	
<b>6. Third sector care provider organisation</b>	
<b>7. Independent / private care provider organisation</b>	
<b>8. Representative organisation for professional group</b>	
<b>9. Representative organisation for staff group e.g. trade union</b>	
<b>10. Education / academic group</b>	
<b>11. Representative group for patients / care users</b>	

<b>12. Representative group for carers</b>	
<b>13. Patient / service user</b>	
<b>14. Carer</b>	
<b>15. Other – please specify</b>	



© Crown copyright 2014

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-1-78544-034-2 (web only)

Published by the Scottish Government, December 2014

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for the Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS41659 (12/14)

w w w . s c o t l a n d . g o v . u k