

Analysis of Responses to the Children and Young People Bill Consultation

ANALYSIS OF RESPONSES TO CHILDREN AND YOUNG PEOPLE BILL CONSULTATION

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EXECUTIVE SUMMARY

The Children and Young People Bill will be introduced to Parliament in 2013 and will set out fundamental reforms to the way services for children and young people are designed, delivered and reviewed. The Scottish Government conducted a large-scale series of national engagement events to discuss the proposals for reforms with a wide range of stakeholders. In addition, it published a consultation document on 4 July 2012 which invited views on key areas of proposed reform: children's rights; early learning and childcare; getting it right for every child; and the care system.

Two hundred and ninety eight responses to the consultation were received¹, 81% from organisations (including 30 Scottish local authorities), and 19% from individuals. A summary of their views on the proposals follows.

More effective rights for children and young people

Most (70%) of those who provided a view considered that the legislative proposals provided for improved transparency and scrutiny of the steps being taken by Scottish Ministers and relevant public bodies to ensure the progressive realisation of children's rights. However, a significant minority (15%) felt that the proposals did not go far enough, a common view being that they fell short of fully incorporating the United Nations Convention on the Rights of the Child (UNCRC) into Scottish legislation.

It was commonly felt that all public bodies working directly or indirectly with children and young people should have a duty to report on implementing children's rights. This included independent contractors in the voluntary and private sectors used by public bodies.

Sixty nine per cent of those providing a view agreed with the proposal to extend the Children's Commissioner's role to undertake investigations on behalf of individual children and young people. More information was requested, however, on the scope of the proposed role and how it would dovetail with the existing systems in place for addressing violations of children's rights.

A focus on wellbeing

There was much support (84% of those who provided a view) for the proposed definition of the wellbeing of a child or young person based on the 8 Wellbeing Indicators known by the acronym 'SHANARRI' (safe; healthy; achieving; nurtured; active; respected; responsible; included). The definition was perceived as holistic and already well recognised by practitioners.

Most respondents (90% of those who provided a view) agreed that a wider understanding of a child's or young person's wellbeing should underpin the proposals. This was seen as avoiding a narrow consideration of children's needs and helping wider services and agencies realise their direct or indirect impact on children and their responsibilities towards them.

¹ 2 further responses were accepted but received too late to be included in the analysis.

Better service planning and delivery

Overall there was much support for the proposal to place a duty on public bodies to work together to jointly design, plan and deliver policies and services and ensure that they are focused on improving children's wellbeing. Eighty per cent of those who provided a view supported this proposal which was seen as important in the context of improving children's and young people's wellbeing. Many had experience of current good practice in this regard and considered that formalising this in statute would strengthen such practice, making it more robust, consistent and able to be built upon. The main substantive argument in opposition to the proposal was that joined up working already exists and imposing a duty will not add value.

It was generally agreed that the public bodies listed in Annex B of the consultation document provided a useful starting point from which to identify bodies who should be covered by the proposed duty, which should also encompass private and voluntary sector organisations contracted by local authorities to provide services relating to children and young people.

A common view was that the proposed duty should be integrated within the Community Planning Partnership framework using the Single Outcome Agreement as the vehicle for integration.

Improved reporting on outcomes

Seventy per cent of those who provided a view agreed that reporting arrangements should be put in place which make a direct link for the public between local services and outcomes for children and young people. It was commonly thought that this would promote transparency and accountability and would be particularly helpful in complex areas such as domestic abuse, where parents have learning disabilities, and in relation to LGBT young people. A recurring theme was that any indicators and measures should be meaningful, realistic and measurable.

Opponents of the proposal considered that it may prove impractical to isolate the impact of different services and to take account of the external context in which they operate.

Most of those providing a view (73%) agreed that reporting arrangements should be based on the SHANARRI Wellbeing Indicators which were seen as all encompassing, well established and would provide for consistency across different areas.

The most common rationales amongst those who disagreed with basing reporting on the SHANARRI Wellbeing Indicators were that reporting in this manner will be too complicated and the indicators too blunt and lacking in sophistication for the purpose.

As before, the list of public bodies provided in Annex B of the consultation document was viewed as a useful starting point from which to add or exclude organisations on whom the duty to report outcomes should be placed, with

health, education and social work bodies featuring high up on respondents' proposed lists of relevant bodies.

Improved access to high quality, flexible and integrated early learning and childcare

Around three-quarters (76%) of those who provided a view agreed that the Scottish Government should increase the number of hours of funded early learning and childcare. This was seen in broad terms as likely to produce better outcomes and benefits to children, especially those most vulnerable. However, some respondents qualified their support, emphasising that increased hours will need to be adequately resourced. Others identified implications of the proposal for workforce planning and staff training. A key concern was that extended quantity of provision should not result in diluted quality of provision.

Twenty five respondents considered that support could usefully be provided in alternative ways such as increased parenting support and enriching the child's home environment, targeting the whole family rather than the individual child.

There was much support in principle (83% of those providing a view) for the proposal that the Scottish Government should increase the flexibility of delivery of early learning and childcare. This was seen as opening up more employment and education opportunities for parents whilst providing seamless services for children. However, local authorities in particular expressed concern over what they perceived to be logistical, structural and resource challenges associated with the plan. In addition, some respondents, whilst acknowledging the potential benefits for parents, questioned whether the proposal was in the best interests of the child.

There were mixed views on whether local authorities should all be required to offer the same range of options for early learning and childcare. Whilst over half (57%) of the third sector organisations who provided a view favoured consistency in the options across local authorities, largely in the interests of fairness, only 12% of local authority respondents who provided a view agreed. The main argument to support variation in options across local authorities was that service provision should be needs and context driven and responsive to local circumstances and requirements.

Of those who provided a view on the issue of how cross-boundary placements should be managed, just over half (52%) recommended management through guidance rather than legislation. This was seen as being consistent with the provision of guidance in relation to the Additional Support for Learning Act and would allow for amendments to be made as required in future. Amongst the 40% of respondents favouring legislation over guidance, the main argument was that unlike guidance, legislation cannot be ignored and is less open to different interpretation.

Three-quarters (75%) of those providing a view agreed with the proposal for additional priority to be given to 2 year olds who are 'looked after'. However, many of these supporters considered that the additional priority should apply to all vulnerable groups of 2 year olds whether 'looked after' or not. Many

considered that delivery of services to this group will require the input of specialist staff with a high ratio of staff to children, and would require additional funding in order for local authorities to deliver the service. One substantive concern amongst a minority of respondents was that group care may not be suitable for all vulnerable children and resources should also be available for working with parents/carers and the child in a more direct manner at home.

Named Person

Seventy two per cent of those who provided a view agreed with the proposal to provide a point of contact for children, young people and families through a universal approach to the Named Person role. The most common reason given in support of the proposal was that this would provide a single point of contact for young people and their families which would be particularly helpful where there were additional and complex needs.

Local authorities were over-represented amongst opponents of the proposal. One recurring view was that it is not necessary to provide the service on a universal basis, particularly where finances are limited. Focusing on those with the highest need was deemed by many to be more appropriate. Many respondents requested more detailed plans to be worked up and considered before making firm decisions on the proposal.

It was commonly felt that the proposed responsibilities appeared to be the right ones but delivering them would be challenging without adequate resourcing and staffing. A prominent theme was that there should be flexibility in which body should be responsible for the duty to ensure there is a Named Person, depending on whether children are in full time nursery or have particular needs. Issues of accessibility of Named Person (e.g. through the school holidays) were raised as requiring more thought.

A recurring request was for greater prescription on the arrangements for children and young people in independent or grant-aided schools and also for those in gypsy/traveller communities.

The Child's Plan

Of those who provided a view, 76% agreed that a single planning approach would help improve outcomes for children. One overarching and recurring view was that the planning approach in itself cannot improve outcomes, but rather attention should be given to effecting mechanisms for *implementing* the plan, making it work in practice, with the active involvement of all appropriate agencies and the families themselves.

A predominant concern was over the juxtaposition of the proposed planning approach with existing legislation involving plans required of different agencies. Another dominant theme was that a universal style of Child's Plan may try to achieve too much and end up being meaningless.

It was generally agreed that the involvement of children, young people and their families in the development of the Child's Plan is important, however such involvement will require to be age-appropriate and sensitive to individual needs.

It was emphasised that care should be taken to manage expectations raised by such involvement. Child-friendly presentations of the plans were advocated to promote involvement, perhaps utilising alternative formats such as Wellbeing wheels.

Getting it right for every looked after child, young person and care-leaver

Eighty eight per cent of those who provided a view agreed that care-leavers should be able to request assistance from their local authority up to and including the age of 25 (instead of 21 as now). It was commonly thought that young people can still be vulnerable between the ages of 21 and 25 and being able to request local authority assistance would be helpful to this cohort. Concerns were raised, however, over resourcing the proposal and the intent of the proposal to give young people the right to *request* assistance, but not the right to receive assistance.

The majority (88%) of those who provided a view agreed that it would be helpful to define corporate parenting and to clarify the public bodies to which this definition applies. Common arguments in favour of the proposals were that defining corporate parenting will clarify the respective roles of the various professionals involved, hopefully leading to a more consistent approach across Scotland. The main argument amongst the minority opposing the proposal was that guidance rather than legislation would suffice.

Seventy per cent of those providing a view agreed with the proposed definition of corporate parenting. However, a main focus of concern over the definition was the term 'act in the same way a birth parent would'. The term was perceived as making assumptions about quality and introducing debate over what constitutes good parenting. A recurring theme was that a group of public bodies could not be expected to act in the same way as birth parents.

Just over half (56%) of those who provided a view supported the proposal for a new order for kinship carers as a helpful addition to providing children with a long-term, stable environment without having to become 'looked after'. One fifth (20%) of those who responded sought more detail on the proposal before providing a firmer view. Questions were raised about resourcing the proposal and how it fitted within the wider context of welfare reform. Some doubted the added value of the order whilst others considered it may cause confusion, more bureaucracy and delays.

Proponents of the order identified benefits as enabling kinship carers to access support, financial or otherwise; avoiding the child becoming formally 'looked after'; avoiding the child from going into foster care unnecessarily; and allowing for informality and proportionality of intervention.

Just over half (56%) of those who provided a view agreed that local authorities should be required to match adoptive children and families through Scotland's Adoption Register. It was considered that use of the Register could speed up the matching process and would be particularly beneficial in cases of specialist placing. Many respondents urged, however, that local authorities should retain the discretion to apply different approaches to matching, on a case-by-case

basis. A common concern was that the Register may inadvertently result in more placements further afield with implications for attachment, existing trusted relationships and future difficulties in tracing birth parents.

Better foster care

Around half (53%) of those providing a view agreed that fixing maximum limits for fostering placements would result in better care for children in foster care. It was commonly felt that this would enable children to get a better standard of care, whilst reducing the likelihood of placements breaking down. Discretion was requested by some for situations where there were large sibling groups requiring placement together.

Amongst the 28% of respondents who clearly stated their opposition to the proposal, the most common argument was that placements should be made on a case-by-case basis and depended on a range of factors including size of family home, size of foster carer's own family, age of child and needs of child. Concerns were raised that limiting the number of placements may result in fewer being available and more children ending up in less suitable care arrangements.

Fewer than half (41%) of those providing a view agreed that foster carers should be required to attain minimum qualifications in care. The most common concern over the proposal was that this might discourage potential foster carers and may lead to attrition amongst the current foster carers. Some respondents remarked that qualifications do not necessarily translate into good foster caring and that requiring qualifications may over-professionalise a parenting role.

Those in favour of foster carers being required to attain qualifications considered that these would enhance their skills and help them to deal with increasingly complex behaviours amongst vulnerable children. It was also commonly felt that mandatory qualifications would enhance the status of foster caring.

Whilst disagreeing with the requirement to attain qualifications, some respondents perceived there to be value in the provision of on-going learning opportunities for foster carers, perhaps making *training* compulsory rather than mandatory acquisition of qualifications. The idea of a competency framework tailored to local circumstances was mooted.

A minority (43%) of those who provided a view agreed that a foster care register would help to improve the matching by a local authority (or foster agency). Whilst some respondents considered that such a register would speed up matching, particularly where the child has complex needs, others questioned its added value and the possible impact of children being placed outside their locality.

Other uses were identified as enabling a record to be kept of foster carers unfit to practice; and as a management information and planning tool to keep track of location of foster carers, their skills, training and qualifications.

Three-quarters (74%) of those providing a view considered that the Scottish Government should determine minimum fostering allowances. It was generally

agreed, however, that determining the minimum allowance is likely to be complex and that payment will rely on the financial support of local authorities. Those in favour of the proposal considered that it would promote consistency between local authorities which in turn would ensure equality for fostered children.

Views on assessing impact

The partial Equality Impact Assessment (EQIA) accompanying the proposals was viewed in general as being comprehensive. It was noted that a fuller EQIA would follow. One recurring recommendation was for a dedicated Children's Rights Impact Assessment to be undertaken also. It was considered that children and young people stood to gain most from the proposals, along with parents (particularly women) who wished to return to work/education and who will benefit from increased flexibility of childcare arrangements.

Some felt that children not in need or with low level needs may lose out due to funding being diverted towards their more vulnerable peers. A recurring view was that some groups of children, particularly those with disabilities, had not received adequate coverage and consideration in the consultation document.

A partial Business Regulatory Impact Assessment (BRIA) also accompanied the proposals. It was commonly felt that many of the proposals had significant cost implications for the public sector at a time of budgetary restraint. Calls were made for more detailed costs to be attached to the proposals and more prominence and consideration given to the positive contribution which the private sector could make. A recurring theme was that although the proposals put much demand on current resources, this should pay off over the longer term with fewer problems and demands on care services in future.

1. INTRODUCTION

1.1 The Scottish Government is committed not only to recognising the rights of children and young people, but also rooting these rights into society and public services.

1.2 On 11th May 2012, the First Minister announced the Scottish Government's intention to introduce a Children and Young People Bill to Parliament in 2013. This Bill will set out fundamental reforms to children's services in line with the report of the Christie Commission which highlighted how services must better meet the needs of the people and communities they serve. The reforms will be based on 3 key principles:

- A more rapid shift to the early years and early intervention to improve the outcomes for the most vulnerable children and young people.
- This shift should be part of a more comprehensive change in how services can work together to support all children and young people at all stages of their lives.
- There is a need to make real the rights of children and young people.

1.3 On 4th July 2012 the Scottish Government published a written consultation document for the proposed Bill to which views were invited on key areas of proposed reform:

- **Children's rights.** The Scottish Government wishes to embed the rights of children and young people across the public sector in line with the UNCRC. Legislation will require the public sector to report on what they are doing to take this forward. It is proposed that Scottish Ministers will have duties on them to take steps to further the rights of children and young people. Scotland's Commissioner for Children and Young People will have powers to undertake investigations on behalf of individual children and young people.
- **Early learning and childcare.** The Bill will improve the availability of high quality, flexible, integrated early learning and childcare. This will involve increasing the amount of free early learning and childcare from 475 hours a year to 600 hours, available to every 3 – 4 year old and the most vulnerable 2 year olds.
- **Getting it right for every child².** It is proposed to put *Getting it right for every child* on a statutory footing. This will create a single system of service planning and delivery across children's services.
- **Care system.** Proposals include raising the age of young people leaving care who can ask for help from a local authority from 21 to 25; applying a new corporate parenting duty on public bodies; and making the use of Scotland's Adoption Register by local authorities compulsory.

1.4 In parallel with the formal written consultation exercise, the Scottish Government conducted a large-scale series of national engagement events to discuss Bill proposals with a wide range of stakeholders.

² <http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright/publications>

1.5 The written consultation closed on 25th September 2012. This report presents the analysis of the views contained in these responses.

Written consultation responses

1.6 Two hundred and ninety eight responses³ to the consultation were submitted and analysed. These responses have been made publicly available on the Scottish Government website⁴ unless the respondent has specifically requested otherwise. Two hundred and forty one responses (81%) were submitted by organisations, with 57 (19%) submissions from individuals. Table 1 overleaf shows the numbers of responses by category of respondent.

1.7 Third sector organisations comprised the largest respondent group, submitting 35% of all responses received. In total 30 Scottish local authorities provided views either through their own departments or as part of multi-agency/partnership combined responses. The full list of the organisations responding to the consultation is in Annex 1.

Table 1: Number of responses by category of respondent⁵

Category	Number	Percentage %
Third Sector	104	35
Local Authority Departments	26	9
Education Bodies	25	8
Health Bodies	21	7
Multi-Agency Partnerships	17	6
Justice Bodies	10	3
Unions	8	3
Academic Institutions	6	2
Others	24	8
Total organisations	241	81
Individuals	57	19
Total	298	100

NB Percentages may not total 100% exactly due to rounding.

³ 2 further responses were accepted but received too late to be included in the analysis.

⁴ The consultation non-confidential responses can be viewed at:

<http://www.scotland.gov.uk/Publications/2012/10/5874>

⁵ Where respondents fitted more than one category, a decision was made on their "lead" category according to the content of their response.

1.8 An electronic database was used to collate the written responses to assist analysis. Both quantitative and qualitative approaches to analysing the responses were adopted to reflect the nature of the consultation questions, many of which combined both closed and open elements. It should be noted, however, that although many questions asked directly whether respondents agreed with specific proposals, the response form did not include 'agree/disagree/mixed views' response options. The analysis therefore includes quantitative data derived from views where the respondent has made clear whether they agree or disagree with what is proposed. Where their view is unclear, or in cases where arguments for and against are presented, their view is quantified in the analysis as neither clearly agreeing nor disagreeing with the proposals.

Report of findings

1.9 The following 9 chapters document the substance of the analysis. Chapter 2 examines views on the Scottish Government's proposals for more effective rights for children and young people. Chapter 3 focuses on the definition and concept of 'wellbeing'. Chapters 4 and 5 explore views on service planning, delivery and the reporting of outcomes. The Scottish Government's plans for more flexible and integrated childcare are presented in Chapter 6 with responses analysed. Views on the proposal to appoint a Named Person as a single point of contact for children and their families are reported in Chapter 7. Chapter 8 outlines responses to the Scottish Government's proposals for a single planning approach in relation to developing a Child's Plan. Views on proposals for getting it right for every looked after child, young person and care leaver are presented in Chapter 9. Finally, views on a raft of proposals for better foster care are analysed and reported in Chapter 10.

2. MORE EFFECTIVE RIGHTS FOR CHILDREN AND YOUNG PEOPLE

Background

2.1 The Scottish Government believes that there is no one policy or initiative which can bring about the kind of changes required to address the challenges faced by children and young people who experience poor outcomes throughout their lives. The Government does, however, see a role for legislation in accelerating the progress already made; bringing about a step-change in the way all services support children and young people; and inspiring renewed debate and ambition for what children and young people can expect of such services.

The Government proposes the following legislative changes:

- Embedding the rights of children and young people across the public sector in line with the UNCRC. Duties should be placed on Scottish Ministers to take steps to further the rights of children and young people and promote and raise awareness of the UNCRC.
- The wider public sector should be required to report on what they are doing to take forward realisation of the rights set out in the UNCRC.
- The powers of Scotland's Commissioner for Children and Young People should be extended to undertake investigations on behalf of individual children and young people.

Question 1: Do you feel that the legislative proposals will provide for improved transparency and scrutiny of the steps being taken by Scottish Ministers and relevant public bodies to ensure the progressive realisation of children's rights?

2.2 Two hundred and twenty-six (76%) respondents answered this question. Of these, 70% agreed that the legislative proposals will provide for improved transparency and scrutiny of the steps being taken by Scottish Ministers and relevant public bodies to ensure the progressive realisation of children's rights. Ten per cent of those who addressed this question did not agree that the proposals will provide for improved transparency and scrutiny. The remaining 20% provided commentary without clearly agreeing or disagreeing. A breakdown of responses by category of respondent is in Table 2 overleaf.

2.3 Across most sectors, over 60% of respondents addressing the question agreed that the legislative proposals will provide improved transparency and scrutiny. Due to the small numbers amongst the justice bodies and academic institutions which responded, the respondents who provided relevant commentary without making clear whether or not they were in agreement reduced the overall percentage of those in agreement or disagreement.

Table 2: Q1 responses by category of respondent

Category	Agree		Disagree		Neither		Total
	No.	%	No.	%	No.	%	
Third Sector	52	68	5	6	20	26	77
Local Authority Departments	18	72	2	8	5	20	25
Health Bodies	17	85			3	15	20
Multi-Agency Partnerships	13	81			3	18	16
Education Bodies	10	62	2	12	4	25	16
Others	13	87	1	7	1	1	15
Justice Bodies	3	38	1	12	4	50	8
Unions	5	83	1	17			6
Academic Institutions	2	40	1	20	2	40	5
Individuals	25	66	9	24	4	11	38
Total	158	70	22	10	46	20	226

NB Percentages may not total 100% exactly due to rounding.

Reasons given for agreeing that the proposals will improve transparency and scrutiny

2.4 Relatively few respondents provided rationale to support their view that the proposals will lead to improved transparency and scrutiny, with many supporters simply welcoming what they perceived to be a step in the right direction. For example:

'We welcome the commitment in the consultation document to ensuring that a 'child-centred and rights-focused approach' is 'embedded in how services are planned and designed'. Such an approach is crucial in improving outcomes for children and young people and in realising the ambition of making Scotland the best place for children to grow up' (Barnardo's).

Five or fewer respondents in each case provided the following rationales:

- will help to raise awareness/provide a higher profile for children's rights
- reflects UNCRC obligations/gives meaning to these
- makes children's rights more explicit and clearer
- will help to increase accountability
- outcome focused
- will promote a consistent approach across Scotland
- robust
- demonstrates commitment/sends the message that children and young people have separate rights to those of adults
- gives added focus to existing approaches
- aligns with articles 42 and 44 of UNCRC.

2.5 A few respondents, largely from the third sector, provided support for the proposed steps in principle, but commented that implementing the proposals may be challenging.

2.6 Several respondents provided recommendations on how best to go about implementing the proposals. Three themes dominated these responses:

- There should be comprehensive **awareness raising** activities through education, community and other outlets to ensure children, young people, their parents and other carers are aware of their rights (19 mentions). Ideas from children and young people included classroom based discussion, websites, Apps, smart phone, conferences, children's rights bus, games, promotion through libraries and community centres. Thirteen respondents across several respondent sectors requested that more attention is given to raising awareness of rights amongst children with disabilities.
- The **duty on Scottish Ministers to promote and raise awareness of the rights of children and young people should be extended to other public bodies** (14 mentions). This was considered as a way of improving consistency of approach across Scotland and was highlighted largely by third sector organisations.
- The proposals will require to be **costed and resourced** appropriately (13 mentions from a range of different sectors).

2.7 Other ideas for effective implementation included establishing a detailed timeline for implementation and compliance with the legislation (5 mentions); giving consideration to how to ensure that all organisations dealing with children have a clear understanding of the UNCRC (5 mentions); ensuring that the detail of the legislation is sound (3 mentions); and providing guidance to public bodies on what the legislation means for them in practice (1 mention).

Reasons given for disagreeing that the proposals will improve transparency and scrutiny

2.8 It was commonly felt that although intentions are well meaning, the **proposals do not go far enough** (34 mentions) and that they fall short of fully incorporating the UNCRC into Scottish legislation (21 mentions). Comments included:

'The legislation in itself will not ensure the progressive realisation of children's rights' (NHS Education for Scotland).

'The Bill feels like a missed opportunity to fully incorporate the rights agenda' (Angus Council).

2.9 Other respondents (13 respondents) perceived the proposed duty on Scottish Ministers to 'take appropriate steps to further the rights as set out in UNCRC' as a diluted version of the original proposal set out in the previous consultation for Ministers to have 'due regard' to UNCRC. One summed up the views of many thus:

'We are disappointed not only that the proposed duty on Ministers 'to take appropriate steps to further the rights set out in UNCRC' is a step away from the original proposal in the Rights of the Child Bill

consultation to have 'due regard' to UNCRC, but also that there is no move to fully incorporate UNCRC into domestic law. Such a move would send a clear signal about how we as a society value children and how we will treat them in the future' (Children 1st).

Another observed:

'The proposed Rights of Children and Young People Bill required Scottish Ministers to pay 'due regard' to the UNCRC. We have concerns that a duty on Scottish Ministers to 'take appropriate steps to further the rights' is less specific, and we are unsure if this would have less impact' (NHS Health Scotland).

2.10 Fifteen respondents from a range of different sectors perceived the proposals to **lack sufficient detail** for them to give their support. For example, 'take appropriate steps' was considered to be 'vague, ambiguous and subjective' (Quarriers). Another respondent commented:

'We would wish to see more clarity on what the duties would mean in practice, how they would affect public bodies and how they would influence the formation of policy' (Children's Hearings Scotland).

2.11 A further recurring reservation was that the proposals appeared to **duplicate practice already in operation**. Nine respondents explained that duties already exist to ratify the UNCRC and that the proposals would result in duplication of reporting systems already in place. One considered that this would 'add another layer of bureaucracy' which was unnecessary (Scottish Attachment in Action).

Other comments

2.12 A recurring theme amongst supporters and opponents alike (21 mentions) was that the proposals do not provide information on how realisation of the duties will be monitored and action evaluated, and how organisations will be held to account. One respondent provided their view that success will be:

'.....dependent on the robustness, objectivity, independence and accessibility of the processes put in place for monitoring and reporting the outcomes' (Consultants in Dental Public Health and Chief Administrative Dental Officers in Scotland Group).

2.13 Another recurring comment was that the proposals do not provide clear ways for children to seek redress legally if they felt their rights were not being upheld (16 mentions). Two respondents urged that the proposals should not simply result in a tick list, but should demand quality and an evidence base of what is being done to further children's rights.

2.14 Further substantive comments were provided by 5 or fewer respondents:

- there should be a duty to provide a child rights' impact assessment
- concerns around the focus being on *reporting* rather than *embedding* children's rights
- consideration should be given to how the views of children, young people and the third sector will be incorporated into the reporting framework
- access to independent advocacy should be included in the proposals.

Outstanding queries

2.15 Two significant outstanding queries emerged from responses. Children involved in consultation responses highlighted the issue of competing rights and questioned how conflicting rights of say, children and their parents, might be resolved under future legislation. Concerns were also raised by a third sector organisation over awareness raising of rights amongst separated children including those who may have been victims of human trafficking and may have little conceptual awareness of the notion of 'rights'.

Plans for 3 yearly reporting

2.16 There was cross-sector support (15 mentions) for the proposals for a 3 yearly cycle of reporting which was seen as helping to focus action and 'proportionate'. However, 2 respondents felt that 3 years was too long a period, especially when viewed through the eyes of children.

Question 2: On which public bodies should a duty to report on implementing children's rights be applied?

2.17 Two hundred and twelve (71%) respondents answered this question. Thirty one of these simply agreed that the bodies identified in Annex B of the consultation document were appropriate. Seventeen respondents (largely third sector) recommended that the list in Annex B be compared with that in Schedule 19, Part B of the Equality Act 2010 to identify commonalities between them.

One remarked:

'Given the similarity with the obligations being discussed here, the Commission believes this would avoid confusion and also improve the quality of both indicators by allowing cross-fertilisation between the 2 processes' (Equality and Human Rights Commission).

2.18 Sixty nine respondents stated that all public bodies working directly or indirectly with children and young people should have a duty to report on implementing children's rights. A further 15 respondents recommended that all agencies (statutory, voluntary and commercial) involved with children and young people should be included.

2.19 Other respondents highlighted specific bodies which they felt should come under the duty to report. These are summarised below. It should be noted that most respondents identified many different bodies in this regard.

Table 3: Views on which public bodies should have a duty to report on implementing children’s rights

Body	No. of mentions
Local authorities	25
Voluntary organisations	24
Police	19
Independent contractors used by public bodies (including private and voluntary sector organisations)	19
Health boards	17
Education bodies	16
Health Services	14
NHS Health Scotland	13
Scottish Children’s Reporter Administration	11
Social Work	11
Scotland’s Commissioner for Children and Young People	10
Scottish Prison Service	9
Education Scotland	8
Housing services	7
Children’s Hearings Scotland	7
Care Inspectorate	7
Statutory Bodies	6
Community Planning Partnership partners	5
Scottish Social Services Council	5
Additional Support Needs Tribunal Scotland	5
Mental Health Tribunal for Scotland	5
NHS Education for Scotland	4
NHS 24	3
Scottish Housing Regulator	3
Registered Social Landlords	3
Mental Welfare Commission for Scotland	3
Scottish Public Services Ombudsman	3
Scottish Funding Council	3
Social care	3
Schools	3
Criminal Justice	3
Colleges and universities	3
Sport and leisure	3
Parole Board for Scotland	2
Independent/grant aided schools	2
Scottish Information Commissioner	2
Scottish Courts Service	2
Transport Scotland	2
Disclosure Scotland	2
Scottish Legal Aid Board	2
Scottish Legal Complaints Commission	2
Skills Development Scotland	2
Social services	2

Children's Panel	2
Play and leisure services	2
Scottish Natural Heritage	2
NDPBs	2
sportscotland	1
'Regeneration'	1
Scottish Fire and Rescue Services	1
Young Offenders Institute Polmont	1
Centre for Looked After Children in Scotland	1
Historic Scotland	1
Gaming and online services	1
Children's Homes	1
Cycling	1
Active travel	1
Equality and Human Rights Commission	1
Health and Safety Executive	1
IT	1
Private landlords	1
Staff Associations/Bodies including Royal Colleges in health	1
'Youth work'	1
Crown Office	1
Scottish Ambulance Service	1
All emergency services	1
Arts and culture	1
Scottish Youth Parliament	1
Non statutory regional college boards	1
Dentists	1
NHS Trusts	1
Childcare	1
Education Inspectors	1
'Employment sector'	1
'Early years'	1
Tourism bodies	1
Children's legal services	1
Forestry Commission	1

2.20 A small minority of respondents highlighted that not all public bodies should, in their view, come under the duty. The Parole Board and the Pensions Appeal Tribunal were identified in this regard on account of what was perceived to be their limited scope to improve a child's wellbeing. One respondent considered the question to be irrelevant given, in their view, that 'it's everyone's job to get it right' for children (Individual respondent). Three respondents (all third sector) recommended that all public bodies are given the duty by default unless they can justify their exclusion.

2.21 Several respondents emphasised that it should be made clear that the duty to report includes the third sector and private organisations which deliver services on behalf of public bodies. Another stressed that it should apply to frontline staff in addition to top-tier staff.

2.22 Three respondents expressed concern for what they considered would be significant resource implications associated with administering the duty including resourcing staff training. Three others recommended that different levels of responsibility should be attached to different public bodies depending on their level of influence and contact with children and young people. One urged that the duty be 'proportionate'.

2.23 Three respondents requested that the duty to report on implementing children's rights should be integrated with the reporting arrangements referred to in Question 9 in connection with making a direct link between local services and outcomes for children and young people.

2.24 It was considered that whatever public bodies were included in the final list, this should be subject to regular amendment and update. For example, the possibility of functions coming under the Scottish Government led 2 respondents to suggest that the Department of Work and Pensions and HM Revenue and Customs may require to be added at some future date.

2.25 Eleven respondents urged that existing reporting mechanisms be deployed such as the Children's Services Inspections and Audit Scotland Community Planning Partnership Audits.

Q3: Do you agree that the extension of the Children's Commissioner's role will result in more effective support for those children and young people who wish to address violations of their rights?

2.26 Two hundred and eighteen (73%) respondents answered this question. Of these, 69% agreed with the proposal to extend the Children's Commissioner's role, 11% disagreed, and 19% provided commentary but did not clearly agree or disagree. Table 4 overleaf summarises the responses. Respondents most in favour of the proposal were academic institutions, justice bodies, unions and third sector organisations. Education bodies, local authority departments and multi-agency/partnerships were least likely to support the proposal.

Table 4: Q3 responses by category of respondent

Category	Agree		Disagree		Neither		Total
	No.	%	No.	%	No.	%	
Third Sector	57	80	3	4	11	15	71
Local Authority Departments	12	48	6	24	7	28	25
Health Bodies	14	74	1	5	4	21	19
Education Bodies	8	47	4	24	5	29	17
Others	11	65	2	12	4	24	17
Multi-Agency Partnerships	7	50	3	21	4	29	14
Justice Bodies	7	88			1	12	8
Unions	4	80	1	20			5
Academic Institutions	5	100					5
Individuals	26	70	5	14	6	16	37
Total	151	69	25	11	42	19	218

NB Percentages may not total 100% exactly due to rounding.

Reasons for supporting the proposal

2.27 Specific reasons for supporting the proposal were outlined. These are listed below:

- child friendly means of redress
- Commissioner will be viewed as independent
- allows for implementation of UNCRC
- will help more children and young remedy their rights
- in line with other UK Commissioners
- promotes equity and equality
- more accessible than other approaches to investigating violations of rights
- no fear of children feeling ridiculed
- appropriate for individual cases where child has very complex needs
- potentially quicker than going through court system
- gives another option for investigating rights violations in addition to those already available
- outcomes of investigations could be shared and used to inform local practice
- provides avenue for those cases which may have been ignored previously 'both X and X thought that having somebody responsible for investigating breaches of their rights was a great idea and would help improve situations which otherwise might go ignored as they felt had happened throughout periods of their lives' (2 young females interviewed as part of the consultation).

Other issues raised

2.28 Other respondents (supporters and opponents of the proposal) provided commentary on their concerns, or recommendations for issues to be addressed before such a scheme could be introduced.

2.29 Twenty respondents urged that **more detail be provided** on the scope of the proposed role (what can and can not be investigated; relation to other routes for investigation) and how it would work in practice (e.g. clarity on the age range of children and young people who could access the service). Three respondents suggested that lessons are learned from elsewhere before establishing the role in Scotland. Ten respondents stated that they felt that to date there was no compelling evidence to suggest that extending the Commissioner's role would provide any added value.

2.30 A prevailing theme was that **many different systems already exist** at national and local level for addressing violations of children's and young people's rights. Many respondents recommended that care is taken not to duplicate these systems, but to complement them. It was felt that the delineation of different roles would be very important in order to prevent confusion. One respondent commented:

'It is felt that in its current form, this proposal risks confusing the picture for vulnerable children and their families. It is felt that further consideration and clarification is required to determine whether or not such legislation is actually needed' (Inverclyde Community Health & Care Partnership, Inverclyde Child Protection Committee, Inverclyde Council Education Services).

2.31 It was commonly felt that local systems including **advocacy and mediation services should continue to be supported** with training and resourcing in order for these to operate effectively in tandem with the extension to the Children's Commissioner's role. Respondents argued for local solutions wherever possible, with local independent mediation seen as a way of avoiding escalation of disagreements in many cases. In this way it was envisaged that frivolous or 'low tariff' cases would be filtered out before reaching the Commissioner, helping to keep additional workloads manageable. One suggestion (Multi-Agency Partnership) was for clear criteria to be established for which cases were 'in scope' for the Commissioner's office. Twelve respondents argued that cases reaching the Commissioner should be addressed firstly at local level, and should be referred only when all other avenues have been exhausted.

2.32 The **accessibility** of the Children's Commissioner was discussed in many responses. It was argued that should the extended role be established, there will need to be **awareness-raising of this function** amongst children, young people and their parents/carers, and information provided on the circumstances in which the Commissioner would investigate, rather than investigation by one of the well established existing mechanisms. It was recommended that communication about the extended role should be child-friendly and adapted to suit different communication needs. One respondent commented:

‘.....putting such a measure in place will be useless unless every child and young person in Scotland is educated and has the information about their rights, the law and its processes. This means professionals going out into every school, every year to educate’ (Stepping Stones for Families).

2.33 A few respondents queried the **process of referral**, arguing that in some cases children and young people might be unable to do this for themselves, perhaps on account of communication difficulties, disability or young age. It was felt that appropriate adults should be permitted to undertake this on their behalf, or the Commissioner should be able to instigate investigations even when a child has not sought redress themselves. Four respondents urged that the Commissioner and staff are provided with training in dealing with children and young people with communication difficulties.

2.34 Many respondents had concerns about the **resourcing** of the extended role and the capacity of the Commissioner’s office to accommodate it. Fifty-six respondents from a range of different sectors questioned what additional resources would be made available. Nineteen respondents raised issues about capacity, with a recurring comment being that the additional workload should not result in weakening the existing functions of the Commissioner.

2.35 In addition to concerns about overburdening the Commissioner’s office, 5 respondents (4 being local authorities or multi-agency partnerships) raised the issue of potential **extra workload on local agencies** charged with supporting the Commissioner in his/her investigation.

2.36 A common theme was to question what would happen to the outcome of any investigation by the Commissioner. Twenty two respondents (largely third sector) asked whether the Commissioner would have **powers of redress**. Without some power to reach a resolution, many considered any extended role to be toothless.

2.37 Five respondents questioned whether the extended role may lead to **conflicts of interest**, for example, between the rights and the best interest of the child.

2.38 Three respondents requested that **firm timescales** are established for the Commissioner’s investigations in order to make the process meaningful for children and young people and to avoid inadvertently delaying the pursuit of legal remedies.

3. A FOCUS ON WELLBEING

Background

3.1 The Scottish Government believes that at the heart of the child-centred approach to children's services is the focus on their welfare. It also believes that it is essential that services take a holistic approach to a child's welfare. It intends the Bill to make clear this approach to welfare through the concept of 'wellbeing'. In Scotland, *Getting it right for every child* puts this wider understanding of wellbeing at the heart of its approach. Wellbeing is defined through 8 Wellbeing Indicators, often known by the acronym, 'SHANARRI' (safe; healthy; achieving; nurtured; active; respected; responsible; included) that capture the full range of factors that affect children's and young people's lives.

Q4: Do you agree with the definition of the wellbeing of a child or young person based on the SHANARRI Wellbeing Indicators, as set out in the consultation document?

3.2 Two hundred and thirty (77%) respondents answered this question. Overall, 84% agreed with the definition, 9% disagreed and 8% provided relevant commentary without clearly agreeing or disagreeing.

Reasons given in support of the definition

3.3 The 2 most common reasons given for supporting the definition of wellbeing based on the SHANARRI Wellbeing Indicators were that the definition is holistic and captures a wide range of factors; and that the SHANARRI Wellbeing Indicators are already being used by practitioners, are well recognised, provide a common language and understanding and promote consistency in approach. One respondent commented:

'All CYP services in health, education and social care will be familiar with the indicators and as such, could facilitate and support the early adoption of a definition and understanding of wellbeing' (NHS Education for Scotland).

Four respondents remarked that the indicators provided a useful 'working definition' which helped them to identify areas where children need support. One respondent (Local Authority) praised the language used by SHANARRI as being 'child friendly'. In contrast, one respondent considered the language to be inaccessible (Third Sector), and another perceived SHANARRI Wellbeing Indicators to be targeted more at children rather than teenagers or young adults (Third Sector).

Views on the clarity of the definition

3.4 Seven respondents explicitly welcomed the proposal to empower Scottish Ministers to supplement the definition through Guidance. Six respondents requested a fuller definition of each indicator. Several provided the same comment:

'It is essential that any definition contained in the Bill is unambiguous to avoid public sector bodies entering into debate around the perception of any given definition'.

3.5 One respondent (Education Body), however, requested less prescription, in order to give professionals more scope to use their own expertise. A few respondents agreed that they did not want use of SHANARRI Indicators to end up a formulaic, tick-box process. Ten respondents from a range of sectors urged that training is provided on use of the SHANARRI Indicators. Another commented:

‘Clearly there is ongoing work to be done in enabling consistent interpretation and implementation across Scotland’ (Royal College of Nursing Scotland).

3.6 Six respondents (including 2 Justice bodies) felt that it should be made clearer that the SHANARRI list should not be regarded as exhaustive but just one tool within wider practice models.

Perceived omissions

3.7 Many respondents provided individual views on words or topics which they felt could usefully be added to the definitions. Those which cropped up in more than 3 responses included:

- incorporate play as a factor underpinning several indicators, or indeed as an indicator itself
- incorporate reference to the wider physical and social environs
- ensure references to equality issues including disability are included in the definition.

Views on the relationship with rights

3.8 Five respondents expressed concern that the proposed definition of wellbeing does not refer specifically to rights and they recommended that this be addressed. Fifteen respondents (almost all third sector) urged that the definition of wellbeing should be positioned within the wider context of an overarching framework of children’s rights and that the proposed guidance to supplement the definition should include cross-referencing to UNCRC.

Other comments

3.9 Two further comments recurred. Firstly, 9 respondents highlighted their concerns that the definition lacked consistency with the word ‘welfare’ which was used in other legislation relating to children. One commented:

‘If the Bill uses ‘wellbeing’ instead of ‘welfare’ this will not tie in at all with other existing legislation affecting duties to and powers for children, services for children and their rights. This will lead to confusion and a lack of clarity which will not assist children or service provision’ (BAAF Scotland).

3.10 Finally, concerns were raised by 5 respondents about defining wellbeing in legislation. This was seen as potentially curtailing future refreshment of the definition. It was suggested that defining wellbeing in a Code of Practice rather than legislation might be preferable:

‘.....avoids putting the definition into a ‘legislative time capsule’ and allows it to be more readily updated’ (Advisory Group on Additional Support for Learning).

Others (2 third sector respondents) suggested placing wellbeing in primary legislation, and the more detailed SHANARRI framework in secondary legislation or guidance.

Q5: Do you agree that a wider understanding of a child or young person's wellbeing should underpin our proposals?

3.11 Two hundred and sixteen (72%) respondents answered this question. Of these, 90% agreed, 2% disagreed, and 8% neither agreed nor disagreed, but provided relevant commentary.

3.12 Very little fresh commentary was provided in respect to this question, with most respondents reiterating their previous points, or emphasising aspects of these. The 2 key reasons provided by respondents for agreeing that a wider understanding of a child or young person's wellbeing should underpin the proposals were:

- avoids a narrow consideration of children's needs by a single service
- helps services/agencies to realise their impact on children (however indirectly) and their responsibilities to them.

3.13 Concerns about the proposal included:

- May lead to expectations of access to wider services (e.g. therapeutic) which may not be readily accessible (Individual respondent).
- The definition is not sufficient in itself and the true test will be whether this is embedded in policy and practice (Union).
- The concept of welfare should not be lost in the proposed change. Welfare implies a wider duty to protect and support and represents a strong value position in social work in Scotland (Multi-Agency Partnership).
- May undermine efforts to view children as part of the wider community of family and society, rather than prioritising individual autonomy (Third Sector).

4. BETTER SERVICE PLANNING AND DELIVERY

Background

4.1 The Scottish Government proposes a new duty that brings together, clarifies and firmly embeds existing joint working approaches across the public sector, taking account of the legislation already in place to ensure an appropriate fit. The intended effect will mean that those bodies responsible for expenditure, planning and delivery of services should work together in considering how to improve the whole wellbeing of all children and young people in their area. It will also mean that the roles of frontline staff, who work most closely with children and young people and their families, will be set in clear context of improving wellbeing.

Q6: Do you agree that a duty be placed on public bodies to work together to jointly design, plan and deliver their policies and services to ensure that they are focused on improving children's wellbeing?

4.2 Two hundred and thirty four (79%) respondents answered this question. Overall there was much support for the proposed duty with 80% of those who provided a view in favour. Nine percent of respondents disagreed with the proposed duty and the remaining 11% neither agreed nor disagreed but provided relevant commentary.

Reasons for supporting the proposed duty

4.3 Most of the supporters stated simply that joint working is important in the context of improving children's and young people's wellbeing. Many had experience of current good practice in this regard and considered that formalising this in statute would strengthen such practice, making it more robust, consistent and able to be built upon. Typical comments included:

'Strengthened duties could assist in addressing current barriers to further joint working and could encourage more resource sharing, joint commissioning and data sharing etc under the explicit purpose of delivering better outcomes for children and young people' (City of Edinburgh Council).

'Many public bodies currently work well together regarding children's services. However, this legislation will ensure this is robust and becomes embedded across Scotland' (NHS Grampian Aberdeen City Community Health Partnership).

'This would build on current practice in education where multi-agency partners assist with the delivery of Curriculum for Excellence' (Dundee Integrated Children's Services Partnership).

4.4 Other explicit rationales for supporting the proposed duty included:

- Particularly important for those with complex needs or whose needs fall between a range of different services. People with learning disabilities and people making the transition from care were identified as cases in question. One respondent commented:

'.....partnership working is essential for those in transition from care...to ensure the young person's journey is supported and their current and future life chances and future life chances and opportunities for success are maximised' (Scottish Throughcare and Aftercare Forum).

- A duty would ensure that different agencies and organisations address what was perceived by some to be a current culture of reluctance to share information.
- Unless the duty is implemented, public bodies will not necessarily work together especially in the current climate of limited resources.
- For service users, joined up working reduces the number of times they have to tell their story and provide information.

Arguments in opposition to the proposed duty

4.4 The main, substantive argument provided in opposition to the proposal was that joined up working already exists (and indeed is laid down in legislation) and imposing a duty will not add value. Several respondents remarked that CPPs are already required to work in this way. One typical comment was:

'As there is already a duty on Community Planning Partnerships to 'work together to jointly design, plan and deliver their policies and services' COSLA questions why there needs to be a further duty as described' (Convention of Scottish Local Authorities).

4.5 Four respondents argued that imposing such a duty, if overly prescriptive, might even inhibit current effective joined up work by preventing individual professions developing their own goals and ways of working within the partnerships. Another 4 respondents commented that as joint working will be difficult to enforce, the duty will be no more than a cosmetic exercise.

4.6 Other arguments in opposition to the proposed duty were put forward by 3 or fewer respondents:

- will take up too much time
- ICT systems are not compatible
- smaller sectors could become swamped by larger ones
- no one person will assume responsibility for the child
- there could be a blurring of responsibilities
- many organisations are not comfortable with data-sharing
- there may be gaps in provision between agencies, but primary legislation is not the way forward.

Other comments

4.7 A recurring comment across a range of sectors was that details of how the duty will be enforced and monitored needed to be worked out. One respondent remarked:

'There is no mention within the proposals of any enforcement mechanism. We would also anticipate that there may be disputes around whether or not cooperation had, in fact, taken place in situations where parties disagreed as to the best way forward. When does a difference of opinion as to approach amount to non-cooperation? (Cl@n Childlaw).

4.8 Six respondents across several sectors agreed that implementing the duty could be difficult in practice, due to operational differences between agencies such as different time frames, budgets and protocol. One respondent commented:

‘Whilst strategic “buy in” is often readily forthcoming, how this translates into practice delivery is often more challenging’
(Association of Chief Police Officers in Scotland).

Ten respondents (5 of them third sector) urged that robust protocols be put in place relating to the professional sharing of information. Ten respondents representing 7 different sectors argued that the imposition of the duty would need to be supported with additional funding. Eleven respondents, again from a range of sectors requested that joint training be made available to those who will be involved in joined-up working.

4.9 A prevailing theme to emerge largely from third sector respondents was that voluntary groups, communities and families should also be involved in joint planning of children’s services.

Q7: Which bodies should be covered by duties on joint design, planning and delivery of services for children and young people?

4.10 Two hundred and four (68%) respondents answered this question. Views were similar to those received in response to question 2, with 25 respondents simply agreeing that the bodies identified in Annex B of the consultation document were appropriate. Twenty-seven respondents provided their view that ‘all’ public bodies or ‘all public services’ with responsibility for children’s services should be covered by the duty to work jointly, with several respondents stating the Annex B is too restrictive. As before, it was commonly felt that bodies involved in CPPs could appropriately come under the duty to work jointly in designing, planning and delivering services to children and young people.

4.11 A recurring comment was that private and third sector organisations who have been contracted to provide services relating to children and young people should be involved in joint planning and design of these services. Many respondents also considered that parents, carers, children and young people should also play a part in the joint planning and design of services. One commented candidly:

‘Personal, social, health and educational services are not pizzas which are made up and then delivered. Their design and planning and implementation can only be achieved with the active participation of children, young people and families and wider community’
(Individual respondent).

4.12 As in response to question 2, a common recommendation was for the list in Annex B be compared with that in Schedule 19, Part B of the Equality Act 2010 to identify commonalities between them.

4.13 Many respondents focused on identifying what they saw as the core partners for joint working in relation to children and young people's services: education; health; social work; and police. One outlined their ideas thus:

'...the list in Annex B is too lengthy for all the bodies to be realistically included in joint 'design, planning and delivery' on a practical basis.

There ought to be 2 lists:

- a core group with the main duties to design, plan and delivery services jointly
- another wider group for consultation and input'

(Advisory Group on Additional Support for Learning).

4.14 Other respondents highlighted specific bodies which they felt should come under the duty to work jointly. These are summarised in Table 5 below. It should be noted that most respondents identified many different bodies in this regard.

Table 5: Views on bodies which should come under the duty to plan, design and deliver services jointly

Body	No. of mentions
Voluntary organisations	58
Health	40
Education	38
Police	33
Social Work	30
Local authorities	28
Health boards	16
Private sector	14
Housing	13
Scottish Children's Reporter Administration	9
NHS Health Scotland	8
Social Services	6
Community Learning	6
Culture and Leisure	6
Sports	5
Children's Hearings Scotland	5
Scotland's Commissioner for Children and Young People	4
Social Care	4
Justice	4
GPs	4
Care Inspectorate	4
Arts and Culture	3
Schools	3
FE and Universities	3
Fire and Rescue Services	3
Early Years	3
Employment Services	2
Nurseries and playgroups	2
Department for Work and Pensions	2

Education Scotland	2
Housing Associations	2
Planning	2
Skills Development Scotland	2
Transport	2
Youth work organisations	2
Midwives/health visitors	2
Disclosure Scotland	1
Care Commission	1
HM Revenue and Customs	1
Education Inspectorate	1
Adult services	1
NHS24	1
RSLs	1
Scottish Funding Council	1
Scottish Enterprise	1
Tribunals	1
CABx	1
Scottish Ambulance Service	1
Mental health	1
Immigration	1
Scottish Public Sector Services Ombudsman	1
Youth Justice	1
Drugs and alcohol	1
Criminal Justice	1
Scottish Social Services Council	1
Scottish Prison Service	1

Q8: How might such a duty relate to the broader Community Planning framework within which key service providers are expected to work together?

4.15 One hundred and sixty three (55%) respondents answered this question. A common view across different sectors was that the CPPs were well placed to accommodate this duty, and that rather than re-inventing processes or duplicating effort, the duty should become an integral part of the broader CPP framework. Indeed, many respondents considered that integrating the duty within the CPP would result in a strengthened framework in terms of partners working together in the best interests of children, young people and their families. One respondent commented:

‘Joint planning and delivery to improve outcomes for children is already the responsibility of CPPs. A duty relating to the broader community planning framework would strengthen that responsibility’ (Care Inspectorate).

4.16 A recurring view was that the Single Outcome Agreement (SOA) could provide the vehicle for integrating the duty within the CPP framework, with the SOA guidance for CPPs updated to reflect a set of common national child rights-based indicators to embed children’s rights across the community planning

process. It was envisaged that CPPs should sign off the Integrated Children's Services Plan in each locality with the Action Plan measured against the National Framework for Outcomes. Reporting on progress should be linked to existing reporting systems rather than adding additional layers of reporting. Two respondents highlighted that CPPs will require to report on the services they are delivering for children and young people to the Scottish Government rather than their community.

4.17 The notion of mainstreaming children's rights across all aspects of the CPP framework was supported with 3 respondents requesting that all CPP policies include consideration of, and statements on how to deliver, the best level of service to children, young people and their families. Others agreed that CPPs should adapt to accommodate the duty by, for example, ensuring that thought is given to how best to engage with the private sector, third sector, children, young people and their parents/carers in planning, developing and delivering services for children and young people.

4.18 Seven respondents requested that updated guidance is provided to CPPs to prepare for the integration of the duty, in order to promote consistency in approach. However, 8 respondents commented that any guidance will need to take account of the current review of CPPs and the enactment of the Community Empowerment Bill.

Opportunities

4.19 A few respondents highlighted what they perceived to be the opportunities presented by integrating the duty into the broader CPP framework:

- Will secure and strengthen community involvement in design, planning and delivery of services for children and young people (6 mentions).
- Will help CPPs understand the importance of a wider agency input to children's services (3 mentions).
- Will help to secure a multi-agency approach to designing, planning and delivering services for children and young people (3 mentions).
- Helps to place an emphasis on local solutions (1 mention).

Challenges

4.20 A few respondents highlighted what they perceived to be challenges associated with integrating the duty into the broader CPP framework:

- All CPPs differ in structure which could present a barrier to effective working in relation to this duty (2 mentions).
- Difficult to assign 'duties' to CPPs as they have no legal status (2 mentions).
- Thought needs to be given to how service providers outwith CPPs can be involved e.g. providers of secondary or tertiary health care (1 mention).
- Care will need to be taken to ensure that third sector organisations and community members are empowered to provide meaningful contributions to the planning process (1 mention).
- Children's services will need to be better represented than at present in CPPs (1 mention).

- The duty should not result in more bureaucracy at the expense of time spent working directly with children and young people (1 mention).

5. IMPROVED REPORTING ON OUTCOMES

Background

5.1 At present there are no requirements for public bodies to report collectively on how well children and young people are doing. Individual bodies have specific duties: most notably, section 20 of the Children (Scotland) Act 1985 places a duty on local authorities to publish information about certain services for children. The Scottish Government considers that focusing on specific elements of a child's or young person's wellbeing or the contributions of a particular service does not give the public, let alone children and young people themselves, a full picture of their wellbeing at local level. A duty to report on outcomes for children and young people would enhance implementation of *Getting it right for every child* and the other duties set out in the consultation paper, such as joint planning.

5.2 The Scottish Government proposes to place a duty on relevant public bodies to assist the local authority on a common set of high level outcomes for children and young people. The duty would include the ability of the Scottish Government, working in partnership with stakeholders, to set consistent indicators across Scotland.

Q9: Do you agree that we should put in place reporting arrangements making a direct link for the public between local services and outcomes for children and young people?

5.3 Two hundred and six (69%) respondents answered this question. Of these, 70% agreed, 10% disagreed, and 20% neither agreed nor disagreed but provided relevant commentary.

Views in favour of the proposal

5.4 The most common reason (22 mentions) given in support of the proposal was that this would promote **transparency and accountability**. For some, this was seen as particularly helpful in complex areas such as domestic abuse, parents with learning disabilities and LGBT young people. One respondent commented:

'This would benefit LGBT children and young people by raising the quality of the public services they receive as too often services do not understand, have confidence in, or recognise the importance of considering the impact that their service is having on LGBT people. It would also provide a clear message to LGBT children or young people and the rest of society that they have the same right to non-discriminatory and inclusive services that address their needs' (LGBT Youth Scotland).

5.5 Four respondents considered that these reporting arrangements would help to **raise public awareness** of children's services and their impact.

5.6 Other views in favour of the proposal were documented by 3 or fewer respondents:

- Will help inform future decision-making by professionals and by parents/carers and the community.
- In line with the Christie recommendations.
- Allows service providers the opportunity to demonstrate the impact their service is having.
- Accessible to children and young people.
- People want to know how their taxes are spent.
- Encourages a focus on the wider services which impact on the lives of children and young people.

Qualifying comments

5.7 Some respondents provided cautious support for the proposal with some reservations and qualifying comments. A recurring theme was that any indicators and measures involved should be meaningful, realistic and measurable (11 mentions). One respondent commented:

‘There is a risk of generic indicators masking issues impacting on a small but vulnerable proportion of the population’ (Glasgow City Council).

5.8 Nine respondents recommended that care is taken to ensure reporting is conducted in a child-friendly manner, accessible to the community as well as professionals. One remarked:

‘The reporting needs to be rigorous and clear and honest’ (National Parent Forum of Scotland).

5.9 Eight respondents urged that reporting arrangements should be proportionate and should build upon current arrangements wherever possible. For example, one view was:

‘...there are similarities here with the requirement to set Equality Outcomes under the Public Sector Equality Duties and there will need to be a clear understanding on the difference between the 2 processes while opportunities for complementary working are also exploited’ (Equality and Human Rights Commission).

5.10 Seven respondents emphasised that children and young people should be involved in providing data for reporting purposes, and this would prevent a purely top-down approach. As one respondent commented:

‘In order for this to be a reality, the public have to be involved and not just ‘reported to’’ (YPeople).

5.11 Other qualifying views were provided by 5 or fewer respondents:

- Local flexibility in reporting should be maintained within an overarching national reporting framework.
- To be meaningful and to allow for comparisons there will need be consistency in definitions and consistency in data collected over time.
- Data coming in will require to be robust and will require good monitoring systems to be put in place.

- Scope for disaggregation by equality groups such as gender should be embedded from the start.
- There should be training for public bodies in using the reporting system (e.g. education on terms such outcome measures and output measurement).
- This will require protocols for sharing information and also linkages between different data sets.

Reasons for not supporting the proposal

5.12 All but one respondent category (Other) were represented amongst the 21 respondents who disagreed with the proposal. The most common reason given in opposition to the proposal (10 mentions) was that it is very difficult to isolate the impact which different services are having, and impossible to control for external influences such as changes to the welfare system. Concerns were raised that the attempts to link services and outcomes would be superficial.

One respondent argued:

‘Outcomes for children can be difficult to evaluate. Improvements can be subtle and it can be hard to tell which provisions and supports led to better outcomes’ (Scottish Child Law Centre).

5.13 Others remarked that outcomes can take time to materialise and will not become apparent over the short term.

5.14 Seven respondents expressed concern that the time taken up in reporting might take resources away from delivering services to children and young people. A further 7 respondents simply highlighted limited resources as a barrier to implementing the proposal.

5.15 Seven respondents argued that there was no need to introduce separate arrangements for reporting on the outcome of services for children and young people as current reporting arrangements were adequate.

5.16 Four respondents questioned what use would be made of the data reported. They felt that this could be open to different interpretations and what first appeared as a poor outcome may not necessarily be so. It was suggested that the report could more usefully be viewed as a tool for reviewing the service or a basis for discussion for practice development rather than final judgement.

Other comments

5.17 Ten respondents recommended that reporting on the link between local services and outcomes should be amalgamated with the duty on public bodies to report in implementing children’s rights (Question 2).

5.18 Three respondents questioned how the impact of the voluntary sector on outcomes for children and young people would be captured and reflected in the proposed reporting arrangements.

Q10: Do you think that these reporting arrangements should be based on the SHANARRI Wellbeing Indicators as set out in this consultation paper?

5.19 Two hundred and four (68%) respondents answered this question. Of these, 73% agreed that reporting arrangements should be based on the SHANARRI Wellbeing Indicators, 13% disagreed, and 14% neither agreed nor disagreed but provided relevant commentary. Eight of the respondent categories were represented amongst the 26 respondents who disagreed.

Reasons to support the proposal

5.20 Four main reasons dominated responses:

- The SHANARRI Wellbeing Indicators are all encompassing and provide a holistic approach to measuring links between local services and outcomes for children and young people.
- Use of the SHANARRI Wellbeing Indicators is already widespread and well established.
- There is already a common understanding of the Indicators and a shared language has already developed.
- Common use of the SHANARRI Wellbeing Indicators provides consistency across different areas which allows for national benchmarking.

Qualifying comments

5.21 Many respondents qualified their support. Most commonly, respondents recommended that there be scope for adding more **tailored indicators** to SHANARRI Wellbeing Indicators to reflect local circumstances and other well established reporting frameworks. For example, mention was made of specialist outcomes associated with offending behaviour; reference was made to including play and secure attachment amongst the wellbeing indicators; it was felt that the indicators could usefully be customised depending on the age and stage of children and young people.

5.22 The theme of ensuring coherence with other reporting frameworks emerged strongly, with a further 6 respondents calling for alignment to the national outcomes within the SOA.

5.23 Eighteen respondents recommended that UNCRC rights be reported upon alongside wellbeing. One summed up the view of many:

‘Children and young people may be Safe, Healthy, Active, Nurtured, etc. without having their rights respected. Respected and Included are only 2 of the SHANARRI measures and may not be strong enough in themselves to reflect whether the rights of the child are fully in force’ (Families Outside).

5.24 Another recurring theme was that **ground work will be required** before such reporting arrangements can be operational. Two respondents urged that work be done on ensuring reporting data is of high quality and reliable. Twelve respondents urged that guidance and training is developed to support the introduction of the new reporting arrangements.

5.25 Other qualifications included:

- Children and young people should be involved in providing reporting data (9 mentions).

- Awareness raising will be required to ensure the public understand the SHANARRI Wellbeing Indicators (8 mentions).
- The data should be capable of being disaggregated by equality group such as gypsy travellers and minority ethnic communities (3 mentions).
- Review and updating should be built into the roll out of the arrangements (2 mentions).

Views in opposition to the proposal

5.26 The most common reason to oppose the use of SHANARRI Wellbeing Indicators as a base for reporting arrangements was that this would become **too complex** making outcomes difficult to report in a meaningful way. Two respondents argued:

‘Whilst SHANARRI Wellbeing Indicators provide an excellent framework for planning for the needs of an individual child or young people, it does not follow that it provided a useful tool for planning services or reporting on progress. Seeking to make a direct link between service development under each heading and outcomes for children could be contrived and artificial’ (North Ayrshire Council; Association of Directors of Education Scotland).

5.27 Eight respondents considered the indicators to be **too blunt** and lacking in the sophistication required for their purpose.

5.28 Other reasons given in opposition to the proposal were provided by 3 or fewer respondents:

- The indicators need to be rights based.
- The indicators should be based on welfare and not wellbeing.
- Consistency could be compromised due to different IT systems and different understandings across areas.
- No need to replace existing reporting frameworks which are working well.
- Not suitable for older young people, for example, looked after children aged 16 – 25 years.
- The indicators have not yet been evaluated.

Other comments

5.29 Two respondents recommended that there should be more of a link to adult services in terms of awareness of read-across and impact and an alignment of governance and monitoring arrangements.

Q11: On what public bodies should the duty for reporting outcomes be placed?

5.30 One hundred and eighty one (61%) respondents answered this question although several simply referred to their previous responses to questions 2 and 7. As before, the most common response was to recommend that Annex B forms a general starting point from which to add or exclude public bodies as appropriate. For example, it was thought that the Pensions Appeal Tribunal would not fall within the duty to report, whereas voluntary and private

organisations contracted to provide children’s and young people’s services should be included.

5.31 A few respondents distinguished between placing the duty on *partnerships* as opposed to *partners*. This was reflected in views of the many who identified CPP partners as potential candidates for the reporting duty, and others who considered the CPPs as a reporting entity on behalf of their partners.

5.32 Although 5 respondents included Children’s Hearings Scotland in their nominations for the reporting duty, Children’s Hearings Scotland itself argued that:

‘.....as Children’s Hearings Scotland is not a direct provider of services for children and young people, we do not anticipate that we will collect and hold data on individual children and young people’.

5.33 The theme of collaborative working to fulfil the reporting duty emerged. Health bodies in particular argued that as health board areas were not aligned exactly with local authority areas, collaboration over data and reporting across local jurisdictions will be required. One also remarked that the reporting duty should not sit with one body as this undermines the concept of collaborative working and collective responsibility. One further respondent also supported collaborative working:

‘We wouldsuggest that the public bodies which are required to report to local authorities are required to collaborate to prevent overlap or duplication, especially around information collected from third parties’ (Scottish Social Services Council).

5.34 As in response to question 2 and 7, a common recommendation was for the list in Annex B be compared with that in Schedule 19, Part B of the Equality Act 2010 to identify commonalities between them.

5.35 Other respondents highlighted specific bodies which they felt should come under the duty to report. These are summarised below. It should be noted that most respondents identified many different bodies in this regard.

Table 6: Views on which bodies should come under the duty to report outcomes

Body	No. of mentions
Health/Health boards/NHS	33
Local authorities	25
Education and Education Scotland	20
Voluntary organisations	19
Police	13
Social Work	11
Private sector	9
Scottish Children’s Reporter Administration	8
Children’s Hearings Scotland	5
Scotland’s Commissioner for Children and Young People	5
Housing	4

Care Inspectorate	4
Tribunals	4
Sports	3
Justice/Youth Justice	3
Schools	3
Justice/Youth Justice	3
Culture and Leisure	2
GPs	2
Early Years	2
Nurseries and playgroups	2
Midwives/health visitors	2
Scottish Youth Parliament	2
FE and Universities	2
Scottish Social Services Council	2
Fire and Rescue Services	1
Skills Development Scotland	1
Care Commission	1
NHS24	1
Social Services	1
Social Care	1
Scottish Courts Service	1
Scottish Public Sector Ombudsman	1
Scottish Housing Regulator	1
Young Scot	1
RSLs	1
Scottish Funding Council	1
Scottish Enterprise	1
Scottish Public Sector Services Ombudsman	1
Scottish Prison Service	1
Child Protection partners	1
Youth work	1
Housing Associations	1

6. IMPROVING ACCESS TO HIGH QUALITY, FLEXIBLE AND INTEGRATED EARLY LEARNING AND CHILDCARE

Background

6.1 The Scottish Government is committed to improving and increasing high quality, flexible and integrated early learning and childcare which is accessible and affordable to all. The Bill provides the opportunity to make fundamental changes to early learning and childcare provision, with the following proposed:

- Increase in the amount of funded hours that children aged 3 and 4 year old are entitled to a minimum of 600 hours.
- Increase in the flexibility of how those hours are delivered to support parents' working patterns, support parents into work and provide greater consistency for children.
- Increase in the financial support parents receive for early learning and childcare costs through access to an additional 125 funded hours.
- Provide a minimum provision of 600 hours per annum early learning and childcare for looked after 2 year olds, including joint work with parents or carers where appropriate.

Q12: Do you agree that the Scottish Government should increase the number of hours of funded early learning and childcare?

6.2 Two hundred and eleven (71%) respondents answered this question. Of these, 76% agreed that the Scottish Government should increase the number of hours of funded early learning and childcare. Eleven per cent of respondents disagreed and 13% neither agreed nor disagreed, but provided relevant commentary.

Views on the benefits of increasing funded early learning and childcare hours

6.3 A minority of respondents highlighted what they felt would be the benefits of increasing funded early learning and childcare provision. The reasons identified (by 12 respondents or fewer) were:

- better outcomes and benefits to the child, especially vulnerable children
- supports gender equality, giving women more choice over returning to work
- brings benefits to the economy
- reduces poverty over the longer term
- gives more time during which to deliver effective interventions
- opportunity to deliver Gaelic-medium childcare
- necessary in the context of welfare reforms
- meets the overall needs of families
- opportunity to integrate early learning and childcare
- sends a clear message that value is placed on children's early years.

Practical/operational issues

6.4 Whilst providing overall support for the proposal, many respondents also identified operational/resourcing and other practical issues which they felt would need to be resolved to enable the proposal to be enacted. The most common were:

- The scheme will need to be **adequately funded** with new money and/or ring fenced monies, which is not at the expense of other services (39 mentions across 8 different sectors).
- There are **implications for workforce planning** with arrangements needed for staffing during longer hours, holiday periods and requirements for changes in conditions of service (19 mentions, 5 from local authorities).
- The proposal has **implications for staff training** to ensure that staff are qualified to provide the necessary quality of childcare and learning (5 mentions from 5 sectors).

6.5 The need to maintain quality of provision emerged strongly as a theme (27 mentions). A recurring comment was that quality of provision is more important than quantity. Comments included:

‘If increasing the numbers of hours that children spend in early learning and childcare situations, we need to be very clear that children will be looked after by well trained staff with the skills needed to really enhance the experiences of the young they look after’ (Edinburgh Voluntary Organisations’ Council (EVOC) and GIRFEC in Edinburgh Implementation Team).

‘Without ensuring quality of provision, some perceived benefits of increasing hours may be lost’ (NHS Tayside).

Views on targeting the provision

6.6 Four respondents emphasised their view that the proposed provision should be universal and not based on level of vulnerability, nor parental income. In contrast, however, 15 respondents felt that the policy could benefit from targeting those most vulnerable and/in lower income families. One respondent commented:

‘Is the Government able to afford to increase funded annual pre-school provision for every family that has children aged 3-4? Would it not be more appropriate to target families that are disadvantaged and/or vulnerable and on lower incomes? (Individual respondent).

Alternative approaches

6.7 Eleven respondents urged that the flexibility is maintained for families to take up **mixed provision** of early learning and childcare, including, for example, some hours with a childminder at home.

6.8 Twenty five respondents considered that support could be provided in alternative ways such as **parenting support**, and enriching the home environment, thereby targeting the whole family rather than the individual child. Advice and help delivered through family centres, social work and health visitors were mentioned in this regard. One respondent remarked:

'This proposal seems at odds with the strategic promotion and support for more and better parenting practice as it would, at face value, appear to be promoting institutionalised parenting as the preferred national option' (Consultants in Dental Public Health and Chief Administrative Dental Officers in Scotland Group).

One respondent summed up the views expressed by several opponents to the proposal:

'In many ways, these proposals seem to be more about issues such as employability and increasing flexibility for parents. As such, it is questionable whether they have a place in legislation concerning children and young people' (West Dunbartonshire Council).

6.9 Nine respondents considered that funding would be better spent focusing on **pre-birth to 3 year olds** rather than 3 – 4 year olds.

6.10 Four respondents requested that the proposals go further and extend to coverage of primary school age children requiring **out-of-school provision** (for example, school holidays) or weekends (Multi-Agency Partnership).

Other comments

6.11 Six respondents requested that specific consideration be given to children with disabilities in the proposal to increase the number of hours of funded early learning and childcare.

6.12 Three respondents raised the challenges faced in rural areas in terms of accessing transport to locations of early learning and childcare and capacity in rural areas to deliver the increase in hours.

Q13: Do you agree that the Scottish Government should increase the flexibility of delivery of early learning and childcare?
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6.13 Two hundred and two (68%) respondents answered this question. Of these, 83% agreed with the proposal (at least in principle), 7% disagreed, and 10% neither agreed nor disagreed but provided relevant commentary. Five of the 14 opponents were individual respondents; the remainder represented a range of different sectors.

Benefits identified

6.14 Where respondents highlighted particular benefits of the proposal, these focused largely around the increased flexibility which would be provided for families and the increased opportunity for employment, education and training which would ensue. One parent reflected on their own circumstances:

'For most working parents the current arrangement is not suitable in the slightest. There's no way I could take my child to a local authority nursery for 2.5 hours per day and still be able to do my job'.

6.15 Other benefits specifically envisaged were:

- promotes seamless services for children

- particularly good for disabled children and/or those with additional support needs
- particularly good for equality groups such as children from minority ethnic communities who may not otherwise access these services
- positive benefits for parents mental health and wellbeing
- promotes equality and social integration within communities

Reasons for opposing the proposal

6.16 A few opponents were very specific about their objection, with their rationale summarised below:

- too many practical/logistical difficulties for local authorities to address
- the proposal institutionalises children at the expense of focusing on supporting families and parenting skills
- the proposal represents too much of a focus on childcare at the expense of a dilution of early learning. One respondent commented: 'The EIS is of the view that 'flexibility' has been used by local authorities as a mechanism to avoid their responsibilities to the pre-five cohort under Curriculum for Excellence 3 – 18' (The Educational Institute of Scotland)
- may actually result in limiting local flexibility and creativity
- too difficult to implement in rural areas.

Challenges associated with the proposal

6.17 A common response was to support the proposal in principle, whilst raising issues and concerns which respondents felt needed to be addressed before any final decisions are taken. Local authorities in particular highlighted what they considered could be significant **logistical, structural and resource challenges** associated with the plan. Examples of their comments were:

'The more flexible the delivery of a service is, the more difficult it is to manage which results in the more expensive it is to delivery' (West Lothian Council).

'The challenge will be ensuring that models are sufficiently flexible to support parents, whilst being manageable in practical and financial terms' (East Dunbartonshire Council).

6.18 Respondents across a range of sectors agreed the proposals would require **additional funding**. It was also common for respondents to suggest that local context needed **local flexibility** within any overarching policy. Other specific challenges identified by a small number of respondents were:

- There will be a requirement to **change staff contracts** regarding their new working arrangements (5 mentions). It was pointed out by one respondent (Union) that as the workforce is predominantly female, staff will have their own childcare needs to be considered in the proposals.
- The proposal must take account of the situation in **rural areas** where some providers struggle to survive, there are transport issues and other challenges associated with upkeep of accommodation (5 mentions). One island council explained: 'Shetland Islands Council has to delivery pre-school education in very remote islands which are very sparsely populated.'

- The **timescale** for implementing the proposal is unrealistically tight (3 mentions).
- Some **non-statutory services are more limited** than others in the degree to which they can offer flexibility (3 mentions).

Outstanding concerns

6.19 There were 3 recurring, prominent concerns raised across different sectors over the implications of promoting flexibility for individual children. Fifteen respondents stressed that any increased flexibility should be in the **best interests of the child** rather than primarily to promote more flexible employment patterns. Comments included:

‘Whilst flexibility might appeal to some parents, this has to be balanced with what is appropriate for young children’ (Individual respondent).

‘Long periods of substitute childcare to enable parents to work may not always be in the interests of children, particularly if this involves a series of different carers. It would be helpful to clarify the policy intention of this provision – that is whether it relates to supporting parents in employment or giving children the best possible start, or a mixture of the two’ (South Lanarkshire Council).

‘Allowing a choice of 8 or 9 hours a day would not be in most children’s best interests’ (Advisory Group on Additional Support for Learning).

6.20 Twelve respondents urged that account is taken in the proposal of the **special needs and circumstances** of some children, for example those who require Gaelic medium provision; those who require speech therapists; and so on.

6.21 Twelve respondents emphasised that **quality of provision should not be lost** by attempts to provide greater flexibility in service. Questions were raised over how the quality of provision will be monitored.

Extending the proposals

6.22 Some respondents suggested extending the proposals even further. Their suggestions were:

- Support flexibility into informal and home settings as well as formal contexts (14 mentions).
- Ensure the proposals make stronger links with the National Parenting Strategy with reinforcement that parents are the primary educators of their children (7 mentions).
- Include more wraparound options (such as overnight stays) given the shift patterns of some parents (6 mentions).
- Consider extending to school age children especially those 'in need' (2 mentions).
- Include short break and respite provision (1 mention).

Q14: Do you think local authorities should all be required to offer the same range of options? What do you think these options should be?

6.23 One hundred and ninety (64%) respondents answered this question. Of these, 40% considered that local authorities should all be required to offer the same range of options; 46% of those responding considered that local authorities should be able to offer different options; and 14% provided commentary without making it clear whether they agreed or disagreed. Different views emerged between respondent categories and these are shown in Table 7 below.

Table 7: Q14 responses by category of respondent

Category	Agree		Disagree		Neither		Total
	No.	%	No.	%	No.	%	
Third Sector	29	57	15	29	11	14	51
Local Authority Departments	3	12	21	84	1	4	25
Health Bodies	7	41	8	47	2	12	17
Multi-Agency Partnerships	1	8	10	77	2	15	13
Education Bodies	6	33	10	56	2	11	18
Others	4	29	8	57	2	14	14
Justice Bodies					1	100	1
Unions	2	33	4	67			6
Academic Institutions	1	20	2	40	2	40	5
Individuals	23	58	9	22	8	20	40
Total	76	40	87	46	27	14	190

NB Percentages may not total 100% exactly due to rounding.

6.24 Those most likely to advocate the same range of options across different local authorities were third sector organisations and individuals. Those most likely to disagree with uniformity in provision were local authorities themselves, multi-agency partnerships and unions.

6.25 The main substantive rationale provided for supporting the same range of options across local authorities was that this would be fair, would guarantee consistency and avoid a 'postcode lottery'. One further argument provided by only 3 respondents was that uniformity in provision is important for people moving from one local authority to another or living/working across local authority boundaries.

6.26 The main argument in favour of variation in options between different local authorities was that service provision should be needs and context driven with local authorities responsive to local circumstances and requirements.

Comments included:

'The consultation includes the proposal to consult locally with parents as to their needs and on demand for places; therefore standardising options would perhaps be in conflict with that aim' (East Renfrewshire Council).

'It is difficult to have a prescriptive approach as each local authority and planning partnership will deliver a range of pre-school service options in response to identified need' (Getting it Right for Every Midlothian Child Partnership).

'Provision already varies across Scotland and therefore local authorities are not starting with a blank sheet of paper. Local authorities have different commissioning arrangements with the voluntary and independent sector; different physical infrastructure; and different workforce mixes of teachers and early years workers with different terms and conditions' (East Ayrshire Council Educational & Social Services).

6.27 A common theme (20 mentions) was that service provision in rural areas will necessarily differ from that in urban areas. Other arguments were:

- Offering the same range of options across local authorities is unworkable/impractical (9 mentions).
- Offering the same range of options could stifle innovation and flexibility (6 mentions).
- It is more important to achieve equality of outcome than equality of provision (2 mentions). One respondent commented: 'If the focus is on improved outcomes, it is not clear why standardised input approaches would be beneficial' (Society of Local Authority Chief Officers).

6.28 One emerging suggestion from those both in favour and against common options was that perhaps local authorities could work within a broad framework of core options, but thereafter have scope for local tailoring to meet local needs.

Q15: How do you think the issue of cross-boundary placements should be managed, including whether this might be through primary or secondary legislation or guidance?

6.29 One hundred and forty two (48%) answered this question. Ninety-five respondents provided a clear view on whether they considered cross-boundary placements should be managed through legislation (primary or secondary) or through guidance. Their views are summarised in Table 8 below.

Table 8: Views on management of cross-boundary placements

	Number of respondents	% of respondents
Legislation	38	40
Guidance	49	52
Either legislation or guidance	1	1
Neither legislation nor guidance	7	7
Total	95	100%

Reasons for recommending guidance

6.30 Of those who provided a clear view, just over half (52%) recommended that the issue of cross-boundary placements should be managed through guidance rather than legislation. These respondents represented 8 different sectors, with local authorities over-represented amongst supporters of guidance. Where reasons were provided in favour of guidance the predominant ones were:

- consistent with the provision of guidance in relation to the Additional Support for Learning Act.
- will retain more flexibility if set out in guidance rather than legislation.
- can accommodate current good practice and local arrangements.
- legislation may lead to delays
- more proportionate than legislation.

Reasons for recommending legislation

6.31 Almost one-third (12) of those recommending legislation were respondents from the third sector. Only 3 local authorities advocated legislation in relation to issues of cross-boundary placements. One respondent summed up their view on the purpose of legislation in this context:

‘The purpose of this should be to provide clarity with the aim of reducing the likelihood of litigation about which authority has which duty and to whom’ (Scotland’s Commissioner for Children and Young People).

6.32 Specific reasons provided in favour of legislation were:

- legislation cannot be ignored (unlike guidance)
- promotes consistency in interpretation
- promotes transparency
- for the avoidance of doubt
- necessary in times of reduced resources
- due to the complexity of the issues
- will help to prevent litigation and disputes over duties.

Reasons for recommending neither guidance nor legislation

6.33 Some respondents (5 mentions) perceived current reciprocal arrangements between bordering local authorities to be working well and in no need of amendment through guidance or legislation. One (Education Body) argued for a national agreement on cross-boundary placements; another (Third Sector) recommended that mediation is used in place of guidance or legislation.

Overarching comments

6.34 A number of respondents presented more general comments. A common theme was that whatever arrangements are put in place the needs of the child should be paramount in line with Article 3 of the UNCRC. Another recurring comment was that 'funding should follow the child' perhaps using a voucher system for cross-boundary placements. Two respondents emphasised that children with special needs should not be disadvantaged in any new arrangements, especially as they may be more likely to need to travel across local authority boundaries to seek services to meet their needs. Six respondents highlighted that cross-national boundary arrangements will also need to be addressed. One respondent (Multi-Agency Partnership) recommended that further consultation takes place with local authorities before any final decision is reached.

Q16: Do you agree with the additional priority for 2 year olds who are 'looked after'? What might need to be delivered differently to meet the needs of those children?

6.35 One hundred and eighty six (62%) respondents answered this question. Of these, 75% agreed with the additional priority, but amongst these supporters were many who agreed only on the basis that the additional priority applies to:

- all vulnerable groups of 2 year olds, such as those already in kinship care arrangements; those living in poverty; those with additional support needs; and so on (46 mentions)
- vulnerable children under the age of 2 years (10 mentions)
- looked after children of any age (6 mentions)
- children with disabilities (6 mentions)
- all 2 year olds (2 mentions)
- looked after children under the age of 3 (1 mention).

6.36 Of those agreeing with the additional priority, 19 respondents also explicitly emphasised their support for the inclusion of joint work with parents or carers where appropriate. One commented:

'Any increase in funded places should be balanced by parenting input. At the age of 2 years, the focus must be on securing attachments, providing stability and ensuring a close network of trusted people. These services should provide a focus on parenting skills and home support with these families to improve parenting capacity' (Aberdeen City Council Education, Culture and Sport).

Views on what might need to be delivered differently

6.37 In order to meet the needs of these children, respondents identified a number of service issues to be addressed:

- Delivery will require the input of specialist staff, for example, those with in-depth knowledge and understanding of child development (15 mentions).
- Additional funding will be required in order for local authorities to deliver the additional services (9 mentions).
- Delivery will require intensive support, with a high ratio of staff to children (8 mentions).
- Delivering services to children who are looked after will require partnership work between bodies such as health, social work and education, all working to the same plan (5 mentions).

6.38 Other comments submitted by fewer than 5 respondents were that it is difficult to generalise and the service provision should be led by the requirements of individual children; staffing should be consistent and provided all year around (not just term time); and innovation in models of home and out of home care should be encouraged in this context.

Disagreement with the proposal

6.39 Overall, 26 respondents (amongst these 9 were individual respondents; 7 were local authorities) appeared to express stronger reservations over the proposal (although this was not clear cut in some cases). Eleven respondents across a range of sectors argued that group care is not suitable in all cases, and resources should be directed instead to working with parents/carers and the child in a more direct manner at home. Seven respondents (largely local authorities) emphasised their view that programmes should be individualised to fit individual needs. Other reasons to oppose the proposal for additional priority for 'looked after' 2 year olds were provided by 2 or fewer respondents:

- interferes too much with family life
- these children are already catered for in existing nurseries
- specialist staff will be required
- the proposal does not take full cognisance of kinship and foster carers and arrangements
- being 'looked after' is a temporary status and not necessarily the best indicator of vulnerability
- the proposal appears to be inconsistent with the 'no order' principle; priority should be based on the child's needs rather than any category of order.

Outstanding concerns

6.40 Despite supporting the principle of the proposal for additional priority to be given to 'looked after' 2 year olds, some supporters still had some reservations. A common concern was over the proposed requirement that the child should have been given the status of 'looked after' before being able to access the additional support. This was seen as potentially making the status more appealing than alternatives such as quality kinship or foster care, which might contribute to unnecessary escalation of the use of statutory measures.

6.41 Other concerns were:

- The proposal should not diminish the quality of experience for older children.
- Flexibility should be retained throughout as some looked after 2 year olds may not require the additional service provision.
- Delivering additional services should not inadvertently result in these vulnerable children experiencing more transitions in care as a result of limited capacity to provide continuity of service.

7. THE NAMED PERSON

Background

7.1 *Getting it right for every child* aims to have in place a network of support to promote wellbeing so that children and young people get the right help at the right time. This network will always include family and/or carers and it will include a role that the Scottish Government believes should be put into legislation: the Named Person. This is a practitioner who can monitor what children and young people need, within the context of their professional responsibilities, link with the relevant services that can help them and provide a single point of contact for service that children and families can use if they wish.

7.2 The Scottish Government believes the time is right to consider a comprehensive approach to providing a Named Person for all children and young people, one based on a set of legislative duties. The intention is for every child to have a Named Person from birth up to leaving school, with provisions made for children and young people in special circumstances. The role of the Named Person will be set out in legislation and potentially supplemented by more detailed guidance by Scottish Ministers. It is proposed that from **birth up to school age, health boards** will be responsible for ensuring all children and young people have a Named Person and for the conduct of the duties set out in the Bill. From **school age up until 18 local authorities** will be responsible for the Named Person and accompanying duties.

Q17: Do you agree with the proposal to provide a point of contact for children, young people and families through a universal approach to the Named Person role?

7.3 Two hundred and twenty six (76%) respondents answered this question. Of these, 72% agreed with the proposal, 18% disagreed, and 10% neither agreed nor disagreed, but provided relevant commentary. A closer examination of the responses of the key stakeholders implicated in the proposal, education, health and local authorities, revealed that whilst the views of those from the education sector mirrored the overall pattern of responses, local authorities were over-represented (36%) amongst those opposing the proposal, whilst respondents from the health sector were under-represented (5%) amongst opponents.

7.4 A common view amongst those agreeing with the proposal was that their support was given in principle, but they would reserve full judgement until more practical details had been worked up.

Reasons given in support of the proposal

7.5 Relatively few respondents spelled out clearly their rationale for supporting the proposal. Amongst those who did, the most common reason in support was that this provided a **single point of contact** for young people and their families, especially where the young person has additional needs. Comments included:

‘Children and young people with learning disabilities and families often struggle to negotiate their way through complex systems of care and support and may have to co-ordinate services themselves,

especially at times of transition' (Scottish Consortium for Learning Disability).

'.....liked the idea of recognising who young people can approach to get information and/or talk to if they have a concern or a complaint; someone who will listen and action things on their behalf; making links with parents and other organisations' (Edinburgh Youth Issues Forum).

7.6 Other reasons given in support of the proposal (provided by 4 or fewer respondents) were:

- In keeping with principle of universal service provision in health and education.
- Already operating successfully.
- Will provide consistency across Scotland.
- Ensures early intervention.
- Easier for the public to understand if the provision is universal.

Reasons given to oppose the proposal

7.7 Twenty of the 43 respondents who opposed the proposal stated that it is **not necessary to provide the service on a universal basis**, particularly in a climate of limited finances, and that it should be administered on a highest needs basis instead. One respondent expressed their view thus:

'This is a bad idea, a disproportionate 'solution' in pursuit of a non-problem' (Schoolhouse Home Education Association).

7.8 Another common reason to oppose the proposal provided by 15 respondents was that it could be viewed as **state interference in family life**, compromising the ability of parents to get on with parenting, marginalising their parenting role and disempowering them.

7.9 Other reasons given in opposition to the proposal (provided by 7 or fewer respondents) were:

- The time and resource implications are significant and the capacity is not there to provide this service as detailed.
- Not clear what the added value or purpose will be.
- Difficult to evaluate effectiveness.
- Might result in other professionals abdicating on their responsibilities.
- Other early interventions are already operating which fulfil the role of the Named Person effectively.
- The Named Person principle is already operating in a variety of spheres and does not need to be formalised.
- Not clear how disagreements between Named Person, young person and parents will be resolved.

Wider concerns

7.10 Despite supporting the proposal in principle, many respondents raised concerns about implementing and operating the service. Three concerns were most prominent. Thirty one respondents requested that attention now be given to the detail of the proposal, recommending that **comprehensive guidance** be

produced covering issues such as the level of expertise demanded by the Named Person role; the training necessary (especially in relation to children with additional needs); and the delineation of roles between the Named Person and the Lead Professional.

7.11 Twenty three respondents highlighted their concerns about the **capacity of existing services** (health and education) to accommodate the Named Person function. It was considered that the role could not just be ‘tagged on’ to current job profiles, but relevant staff must be given dedicated time to fulfil the role in a meaningful manner.

7.12 Ten respondents expressed concern more generally about what they considered would be the hugely **challenging administrative task** of implementing and supporting the service. It was considered that without careful planning and resourcing, the proposal could result in compromising both the Named Person function and the current role of the Named Person. One comment was:

‘One of our main concerns would be that it is overloading an already existing job, the implications of this could be that someone becomes overloaded and doesn’t have the ability to put full attention onto the ‘Named Person’ role’ (Debate Project – Scottish Throughcare and Aftercare Forum).

7.13 Such concerns prompted 2 respondents (Ind, Justice) to suggest a new service is established, the ‘Named Person Service’ with trained and dedicated staff independent of other agencies. One further respondent (Other body) suggested that the role should stand in name only, activated only when a child needs support.

7.14 One further concern identified by 5 respondents was to question how the Named Person role would function over school holidays, if teachers were involved in provision.

7.15 Finally, the term ‘Named Person’ was questioned by some as being inappropriate due to its current use within mental health and other domains, and what one respondent (Local Authority) felt was its sinister overtones of ‘naming and shaming’. Terms preferred were: ‘trusted adult’ (Education Body) and ‘statutory friend’ (Individual respondent).

<p>Q18: Are the responsibilities of the Named Person the right ones? Are there any additional responsibilities that should be placed on the Named Person?</p>
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7.16 One hundred and eighty (60%) respondents answered this question. Rather than clearly agree or disagree with responsibilities proposed, most just provided relevant commentary. A common view was that generally the proposed responsibilities were the right ones, but they were not deliverable without addressing what were perceived to be very challenging resourcing and capacity issues associated with the proposal. A typical comment was:

'We feel that the responsibilities, as currently described, are the right ones and if the benefits are realised will support improved outcomes for children and young people. These responsibilities however, require further definition and are not deliverable within the present capacity of the workforce' (NHS Tayside).

7.17 Suggestions were made to help manage the prospective workload:

- Rationalise/share responsibilities with the Lead Professional.
- Provide a 2-tier service in which the Named Person always serves as a point of contact, but delivers the other aspects of the role only where the needs of the child require this.
- Support the Named Person with appropriate training.
- Place a limit on the number of children and young people within a Named Person's remit.

7.18 Other concerns raised were:

- Will the Named Person be able to fulfil their data sharing obligations within the current legal frameworks?
- The Named Person may not be fully aware of what different agencies have to offer.
- The role of the Named Person may need to change according to the life stage of the child/young person.
- There may be conflicts of interest associated with putting across views which run contrary to those of the local authority or health board.
- What is the Named Person's remit in relation to other services if the latter fail to deliver on the Child's Plan? Can the Named Person hold other agencies to account?

Views on additional responsibilities for the Named Person

7.19 Several additional responsibilities were proposed, each by 9 or fewer respondents:

- Responsibility to keep up with training for the role, especially where children have additional support/communication needs such as BSL.
- Preparing for and providing evidence at court, or in children's hearings.
- Smoothing transitions (e.g. a child relocating into an area).
- Ensuring the professional sharing of information. This may involve specialist training in how and why data can be shared.
- Informing children and families about access to advocacy and/or mediation.
- Responsibility for ensuring partner agencies are aware of their particular role as Named Person.
- Becoming informed about existing early interventions and associated arrangements.
- Visiting children and young people at home.

Q19: Do you agree with the proposed allocation of responsibilities for ensuring that there is a Named Person for a child at different stages in their lives set out in the consultation paper?

7.20 One hundred and seventy four (58%) respondents answered this question. As with the previous question, most responses took the form of considered commentary rather than clearly agreeing or disagreeing with the proposal

7.21 The most prominent theme was that **some flexibility is required** over the proposed allocation of duty on public bodies in order to take account of:

- Children at full time pre-school nursery for whom the **nursery head may be more appropriate** as the Named Person rather than a health professional. This was also seen to be in keeping with the Curriculum for Excellence 3 – 18.
- **A needs-led approach** which takes into consideration people who have been closely involved with the child and who have built up their trust; or for children who may need specialist services due to their or their parents additional needs.
- Cases where a child and their parents are **at conflict with the school** and it may be more appropriate to allocate someone outwith the school to be the Named Person.

7.22 A recurring theme was that care should be taken at the **'transition' points** with perhaps more guidance on how to address this, or an overlap between Named Persons as children progress from pre-school to school.

7.23 The potential problem of **accessibility** of Named Person and young person at secondary school age was raised by 18 respondents. Issues included:

- access to Named Person during school holidays
- access to busy, senior school staff with other matters to attend to
- maintaining contact with young people who are truanting or have been excluded from school.

7.24 Three respondents urged that changes to the Named Person should be possible in cases where a young person wishes this or if a Named Person leaves the service. Two respondents requested that the Named Person stays the same from birth to 18 years. One respondent asked for clarification over allocation of responsibilities where a child lives in Scotland but schools in England.

Q20: Do you think that the arrangements for certain groups of school-aged children as set out in the consultation paper are the right ones? What, if any, other arrangements should be made? Have any groups been missed out?

7.25 One hundred and forty eight (50%) respondents answered this question. Whilst many agreed with the intent of the proposed arrangements, they considered that much detailed planning is required to turn the intent into reality.

Views on the arrangements set out

7.26 A recurring comment was for greater prescription regarding the arrangements for children and young people in independent or grant-aided schools and also for those in gypsy/traveller communities. It was agreed that,

particularly in the case of gypsy/travellers, maintaining contact could be challenging, but nevertheless more specificity was requested on who within the local authority would take on the Named Person role once children became of school age.

7.27 Twelve respondents raised the issue of young people who leave school before the age of 18, with a broad agreement that maintaining a Named Person for them may be very challenging for local authorities. Five of these respondents suggested that Skills Development Scotland might be better placed to take on this role.

7.28 Eighteen respondents across 7 different respondent sectors highlighted their disagreement that where a child has always been home educated there should be no duty on local authorities to provide a Named Person unless in response to specific concerns. Concerns were expressed that this arrangement may result in certain children in need falling between gaps in service provision.

Groups missed out

7.29 Some respondents identified what they perceived to be groups of children omitted from the proposed arrangements:

- children with special needs, e.g. mental health problems (10 mentions)
- children who are absent from school for extended periods due to exclusions; refusal to go; school phobia; mental health problems; illness/injury (10 mentions)
- refugees and asylum seekers (5 mentions)
- children relocating across local authority boundaries (4 mentions)
- children in hospitals/hospices (3 mentions)
- care leavers (3 mentions)
- children from other countries who are visiting relatives in Scotland for prolonged periods and may not be registered with a GP or enrolled in education (3 mentions)
- children from minority ethnic communities who go abroad for extended periods (2 mentions)
- young carers (2 mentions)
- young offenders (1 mention)
- LGBT young people who need support outwith the education system (1 mention).

8. THE CHILD'S PLAN

Background

8.1 The Scottish Government proposes to introduce a duty on public bodies to ensure that all statutory planning and assessment relating to a child's or young person's wellbeing is appropriately integrated into a single framework and that all relevant planning activity in regard to individual children is brought together into a Child's Plan. Not all children and young people will have a Child's Plan, but it is proposed that the duty is aligned with section 22 of the Children (Scotland) Act to establish a duty on the local authority to safeguard and promote the wellbeing of children in their area who are in need up to the age of 18. Detailed guidance on the content and format of the Child's Plan and how it will relate to other statutory plans for children and young people will be issued by Scottish Ministers.

Q21: Do you think a single planning approach as described in the consultation paper will help improve outcomes for children?

8.2 Two hundred (67%) respondents answered this question. Of these, 76% agreed that the proposed approach will help improve outcomes for children; 11% disagreed; and 13% neither agreed nor disagreed but provided relevant commentary. The 22 respondents who disagreed with what was proposed represented 8 different respondent categories.

8.3 One overarching and recurring view was that the planning approach in itself cannot improve outcomes and should not become the main focus. Instead, attention should be given to effective mechanisms for *implementing* the plan, making it work in practice, with the active involvement of all appropriate agencies and the children and families themselves. Without this, it was considered that the approach could be reduced to a paper exercise, adding to bureaucracy rather than streamlining processes. Typical comments included:

'....remain concerned that the focus of much of the proposals is on process and on what public bodies will do in this regard. The process is only one part of what is required to improve outcomes for children' (Children 1st).

'....not just a 'plan of plans' adding another layer of bureaucracy and reporting' (One Parent Families Scotland).

Rationale in support of the proposal

8.4 Some respondents articulated their reasons for supporting the proposal, with the main rationale being:

- improvement of outcomes for children and young people
 - more joined-up and consistent approach
 - will reduce bureaucracy and duplication of effort
 - consolidates existing good practice in various local authorities
 - less confusing for children and families
- 'Only a single planning/'whole system' approach will help children and families navigate their way through a highly complex network of

difficulties and accompanying services to address those difficulties' (Families Outside).

8.5 Further reasons given in support of the proposal by only one or 2 respondents were:

- prevents children having to tell their story repeatedly
- ensures participating agencies are working with the same and the most up to date information
- more engaging process for children and young people
- will promote collective responsibility.

Concerns and reasons to oppose the proposal

8.6 The predominant concern of those harbouring doubts about the proposal was over its **juxtaposition with existing legislation** involving plans required of different agencies. Local authorities and multi-agency partnerships were over-represented amongst these respondents who called for greater clarity over, or even the repeal of, existing legislation which they considered overlapped with the proposals. Comments included:

'...disappointment to see that the Bill proposal has added to the confusion around the idea of a single planning process. Initially it promotes a single planning approach and yet at the same time seems to 'duck' the decision to abolish other planning processes such as ASL/CSP and LAC which are causing duplication and hindering attempts to streamline the assessment and planning arrangements for children. The legislation should be bold in this respect' (East Renfrewshire Council).

'...it looks as if this universal plan does not replace any other statutory plan. If that is the case, it won't get over the problem of duplication, it will only add to the bureaucratic burden' (Working Together with Parents Network).

8.7 Another dominant theme was that the universal style of the Child's Plan may **try to achieve too much** and end up being meaningless. Two respondents perceived it as 'trying to be all things to all people'. Concerns were raised over its potential length and possible over-simplicity. One respondent commented:

'...there is a danger that it (*Child's Plan*) becomes so reduced to the lowest common denominator that it becomes useless. There needs to be a recognition that more detailed education, social work, medical and other plans will need to lie behind this' (UNISON).

Another respondent recommended:

'A model involving an overarching plan linked in some cases with sub-plans might be more viable' (South Lanarkshire Council).

8.8 Other major concerns documented by 3 or fewer respondents included:

- significant time and cost implications
- will not add value to what is currently being undertaken
- current experience shows that this approach will not work

- too cumbersome
- will become reactive to crisis rather than a proactive, statutory process
- open to breaches of confidentiality
- too difficult to ensure all relevant services are included (e.g. dentistry)
- just another plan to sit upon other plans
- a greater need is for a ‘family plan’.

Outstanding issues

8.9 Whilst supporting the proposal in principle, many respondents outlined issues which they felt required to be addressed prior to final decisions being made. These are listed below in order of number of mentions:

- compatible ICT systems need to be put in place across participating agencies to aid data-sharing (12 mentions)
- the guidance which Scottish Ministers issue will need to be very strong, robust and definitive (5 mentions)
- issues of data-sharing and data-storage protocol require clarification (10 mentions)
- will need regular monitoring, reviews and evaluation (4 mentions)
- enforcement arrangements need to be clarified (2 mentions)
- a national working group involving relevant stakeholders should be set up to inform the detailed guidance (2 mentions)
- staff training will be required on how to use the paper forms and IT systems associated with the proposed arrangements (1 mention).

<p>Q22: How do you think that children, young people and their families could be effectively involved in the development of the Child’s Plan?</p>
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8.10 One hundred and eighty eight (63%) respondents answered this question. Many responses agreed, in general terms, that the involvement of children, young people and their families in the development of the Child’s Plan is important. Overarching comments were that such involvement will require to be age-appropriate and sensitive to individual needs. Caution was expressed over handling children’s expectations raised by such involvement, and questions posed over whether foster and other carers, grandparents, aunts and uncles should also be involved. It was commonly thought that involving children, young people and their families could build on current good practice.

Views on appropriate processes of engagement and involvement

8.11 Seven respondents across a range of sectors urged that guidance is issued with examples of good practice outlined. Seven respondents (largely third sector) emphasised that processes should be in accordance with the UNCRC. Three respondents suggested that approaches be informed by the National Standards for Community Engagement; two respondents identified the Code of Practice for the Education (ASL)(Sc) Act 2004 as potentially helpful in this context.

8.12 There were mixed views on whether children and young people should be invited to attend planning meetings with some respondents considering these to be inappropriate settings which may intimidate the child. One comment was:

'The current process can be formal, use jargon and rely on paperwork that children, young people and their families may not have read before the meeting. Need to develop a process that is built round the needs of the child and the family (e.g. informal venues) and provide support and advocacy' (Strathclyde Fire and Rescue).

8.13 The use of independent advocacy services as a way of involving children, young people and families in the development of the Child's Plan was suggested by 27 respondents. Thirteen respondents (7 of these being local authorities) were specific in identifying resources which they understood to be useful:

- What I think
- Having your say
- Viewpoint
- Talking Points

Electronic methods of involvement such as e-consultation were also identified as potentially useful.

8.14 Four respondents considered that Family Group Conferencing could be deployed as a method of involving children, young people and families in the development of the Child's Plan.

Views on the implications of engagement and involvement

8.15 A recurring theme was that achieving meaningful involvement will have implications for the way information is written and presented, which will require to be in a child-friendly manner. A few respondents suggested issuing child-friendly versions of plans in addition to the official, professional version. One respondent (Multi-Agency Partnership) urged that innovation in presentation is developed, with alternatives to paper documents considered. Wellbeing wheels, My World Triangles and Mind Maps were mentioned in this regard.

8.16 Another common theme was that involving children will require time and patience whilst trust is built up and they are able to digest and understand the information and processes involved.

8.17 Eleven respondents from 5 different sectors highlighted what they perceived to be the need for additional staff training in ways to involve children, young people and their families effectively.

8.18 The potential problem of disagreements between parents' and children's views and prioritising rights was raised by 6 respondents. One (Third Sector) commented that LGBT young people may not wish their parents to be privy to information about them. Two respondents recommended that independent dispute resolution mechanisms may be required.

9. GETTING IT RIGHT FOR EVERY LOOKED AFTER CHILD, YOUNG PERSON AND CARE-LEAVER

Background on right to support for looked after children

9.1 Local authorities currently have a statutory duty to prepare young people for when they will stop being looked after, and to provide advice, guidance and assistance for young people who have ceased to be looked after over school age up to 18 and a power to do so up to 21. The Scottish Government believes that the current cut-off age of 21 is out of step with ordinary families who provide support to their children throughout their early adult lives. The Government proposes to amend section 29 of the Children (Scotland) Act 1995 to extend the right of young people leaving care to request help from a local authority up to the age of 25. It is proposed that section 30 is also amended to extend the opportunity to provide financial assistance to young people leaving care up to the age of 25.

Q23: Do you agree that care-leavers should be able to request assistance from their local authority up to and including the age of 25 (instead of 21 as now?)

9.2 Two hundred and two (68%) respondents answered this question. Of these, 88% agreed with the proposal, 5% disagreed, and 7% neither agreed nor disagreed, but provided relevant commentary.

Reasons given in support of the proposal

9.3 A recurring comment was that young people are still vulnerable between the ages of 21 and 25 and the right to request assistance would help to address this. Other rationales documented by 9 or fewer respondents were:

- reflects what happens in wider society and families
- in keeping with evidence on effectiveness from outwith the UK
- young people leaving care are developmentally younger than others in their peer group
- will enable any existing effective support to continue
- will help to prevent the young person making unhelpful life choices.

9.4 Thirteen respondents requested that the proposal go further to apply to all vulnerable young people in need, including those with disabilities. Two respondents suggested that there should be no age ceiling for requesting such assistance.

Reasons given in opposition to the proposal

9.4 The main substantive reason in opposition to the proposal was that current resources could not support it. (However, many other respondents supported the proposal in principle, but stated that resourcing will need to be addressed.) Two respondents (both individuals) considered that providing support to young people of this age may delay their growth to independence.

Concerns about the proposal

9.5 Two main concerns dominated responses:

- Forty eight respondents from 9 different sectors (including 19 local authorities) emphasised that the proposal had considerable resourcing implications which would need to be addressed.
- Thirty four respondents from 8 different sectors (including 23 third sector respondents) stated that although young people had a right to request assistance, unless local authorities had a 'duty' and not merely a 'power' to provide assistance this may not come to fruition. One respondent expressed their view thus:
'...there is a world of difference between a power that enables the local authority to do something, and placing it under a statutory obligation to do that thing. In times of stretched resources many local authorities will simply not have the funds to do the things they are merely empowered to do. For this proposal to make a meaningful difference to care-leavers, a right to support, rather than a power to grant it, has to be the way forward' (The Law Society of Scotland).

9.6 Twelve respondents, half of them local authorities, requested greater clarity on what is meant by 'assistance' and what will expected of local authorities. Five respondents urged that young people are made aware of this right, given that the intention is to put the onus on them to request it. Five respondents sought clarification on the overlap between adults' and children's services in relation to this proposal. Clarification was also requested (3 respondents) on reciprocal arrangements across local authority boundaries. One respondent (Justice Body) asked how the proposal would operate in a custodial setting.

Background on corporate parenting

9.7 Corporate parenting means the formal and local partnerships needed between all local authority departments and services, and associated agencies, which are responsible for working together to meet the needs of looked after children and young people and care-leavers. Corporate parenting is implemented inconsistently across Scotland, however, with a lack of shared understanding about the definition, a lack of clarity about how the concept translates to professionals working within health, housing and education, and a lack of clarity around powers to ensure partners are working together. The Scottish Government proposes a legislative change to define corporate parenting and to clarify the public bodies to which this definition applies. This would help the Government to clarify the corporate parenting roles for various professionals and to issue guidance to support them in their role.

Q24: Do you agree that it would be helpful to define corporate parenting, and to clarify the public bodies to which this definition applies? If not, why not?

9.8 One hundred and eighty one (61%) respondents answered this question. Of these, 88% agreed with the proposal, 7% disagreed, and 5% neither agreed nor disagreed but provided relevant commentary.

9.9 Most of the supporters simply re-iterated the arguments in the consultation document that defining corporate parenting will clarify the respective roles of the various professionals involved, hopefully leading to a more consistent approach across Scotland. In addition a few respondents commented:

- Will enable public bodies to be held to account over their corporate parenting responsibilities, and lead to more meaningful monitoring and evaluation of service (6 mentions).
- Will help agencies allocate resources more accurately (3 mentions).
- Will help partner agencies engage with the process (1 mention).
- Will enhance the development of related policy (1 mention).

9.10 Supporters also commented that not only would professionals be more informed about the meaning of the term, but definition would enhance the understanding of others such as children, young people, carers and the wider public.

9.11 A recurring theme was that although the proposal was a step in the right direction, this had to be supported by a shift in culture in some organisations to reflect the meaning of the term and put it into action.

9.12 Amongst the 12 respondents who opposed the proposal, the most frequent reasons were that guidance would suffice rather than resorting to legislation, and that even with the changes proposed, there may not be any difference in outcomes on the ground. One respondent (Third Sector) recommended examining why the current arrangements are not working before making any changes.

9.13 Five respondents (including 3 individuals) disagreed with the term 'corporate parenting'. Suggestions for alternatives were:

- collaborative parenting
- cooperative parenting
- corporate carer
- corporate responsibilities.

One respondent (Multi-Agency Partnership) suggested that young people be consulted on the term used.

Q25: We believe that a definition of corporate parenting should refer to the collective responsibility of all public bodies to provide the best possible care and protection for looked-after children and to act in the same way as a birth parent would. Do you agree with this definition?

9.14 One hundred and sixty four (55%) respondents answered this question. Of these, 70% agreed with the definition, 17% disagreed, and 13% neither agreed nor disagreed, but provided relevant commentary. The 28 respondents who disagreed with the definition were spread across 8 different respondent sectors.

9.15 Those in favour of the proposal provided general supportive commentary. For some, the notion of public bodies treating looked-after children as they would treat their own ('as a birth parent') was seen as a powerful message, with the balance of the definition praised as being tipped towards the 'parenting' aspect over the 'corporate'. Two respondents remarked that implicit in the definition was the requirement for public bodies to think through what acting like birth parents would mean in practice and implement this. One respondent (Third Sector) suggested user-testing the definition with children and young people before finalising it.

Views on enhancing the definition

9.16 Some respondents recommended adding to the definition to strengthen it and give it more practical applicability. Their main suggestions are below:

- provide more specific details on the individual contributions of different partners (7 mentions)
- provide examples (4 mentions)
- expand to cover the promotion of children's wellbeing (3 mentions)
- include reference to a complaints procedure for children to challenge public bodies if they consider they are not fulfilling their role (3 mentions)
- include reference to private and third sector bodies involved in providing care (3 mentions)
- expand to cover maximising the child's potential and taking account of their views (2 mentions)
- define cut-off age (1 mention)
- define public bodies (1 mention)
- include reference to links with Named Person (1 mention).

Concerns over the definition

9.17 The focus of most of the concerns (involving 40 respondents) was the term 'act in the same way as a birth parent'. Some respondents emphasised what they perceived to be the irony of this term considering that the parents of looked-after children may not present the best model of parenting, particularly from the child's viewpoint. The term was seen as making assumptions about quality and introducing debate about what constitutes good parenting. Three respondents considered that if the term is to be used, then an elaboration of what a birth parent is expected to do will be required. One respondent commented:

'I doubt if you could find 2 sets of parents with the same idea of what that would mean for them' (Individual respondent).

9.18 A recurring theme was that the proposed definition can be no more than aspirational, as realistically a group of public bodies could not be expected to act in the same way as birth parents. It was suggested that either the comparison be dropped, or amended to refer to 'exemplary parent' or 'positive parent'.

9.19 Other substantive concerns included:

- By focusing on the collective responsibility, this should not dilute the individual responsibility and accountability of the different agencies within the collection (8 mentions). One respondent cautioned:

‘There is always the danger that a collective responsibility can become nobody’s specific responsibility. There must be clear lines of responsibility to named individuals who must be held accountable for looked-after children in their care’ (Barnardo’s).

- There should still be one person with the clear overall responsibility for the wellbeing of the child (2 mentions).
- The term ‘collective responsibility’ needs clarification (2 mentions).
- The definition as it stands is too subjective to be measurable (1 mention).
- The definition does not match with a child’s expectation of corporate parenting as an impersonal care arrangement (1 mention).
- Rather than attempting such a definition it may be better to set out clearly the duties involved and how they will be enforced (1 mention).

Background on kinship care

9.20 The Scottish Government wishes to recognise the parenting role of kinship carers in legislation. It proposes a new order that will be legally secure; provide a firm foundation on which to build a lifelong permanent relationship between the child and their carer *but* preserve the basic link between the child and their birth family; give the carer clear responsibility for all aspects of caring for the child and for taking decisions to do with their upbringing; and offer an alternative to formal care and provide a right to request an assessment of need by the carer, and a right to appropriate financial and non-financial support. The overall aim of the new order is to ensure that the carer will have clear responsibility for all the day-to-day decisions about caring for the child and their upbringing.

Q26: Do you agree that a new order for kinship carers is a helpful addition to provide children with a long-term, stable environment without having to become looked after?

9.21 One hundred and seventy three (58%) respondents answered this question. Of these, 56% agreed with the proposal, 24% disagreed, and 20% neither agreed nor disagreed but provided relevant commentary. One reason for the relatively high proportion of respondents lacking clarity in their support related to the volume of respondents who sought more detail on the proposal, considering that more time is required to examine carefully the implications intended and unintended of the proposal. In particular, there were questions about resourcing the proposal with many viewing the initiative within the wider influencing context of welfare reform.

Reasons given in support of the proposal

9.22 Amongst the minority of respondents providing substantive rationales in favour of the proposal, the main benefits were identified as:

- enables kinship carers to access support, financial or otherwise
- avoids the child becoming formally ‘looked after’
- avoids unnecessarily going into foster care
- allows for informality/is proportionate/less intrusive intervention.

9.23 Several respondents qualified their support by stating that this is based on the condition that kinship carers are in practice able to access the necessary financial benefits that they require; and that the appropriate screening of their suitability as carers is undertaken.

Concerns about the proposal

9.23 The most common concern documented was that the added value of the proposal was not clear and perhaps an amendment to Section 11 of the Children's (Scotland) Act 1995 could suffice. Thirty five respondents provided this view including 13 local authorities and 6 multi-agency partnerships.

9.24 Other substantive concerns included:

- The proposal will cause confusion, more bureaucracy, delays and duplication (8 mentions). One respondent commented: 'Many of the children living within these arrangements now may have no involvement with social work services and the family will have made private arrangements for the child to live there. Giving the local authority a role in facilitating these applications is likely to include some level of assessment of the appropriateness of the placement, where they would not previously have had this role. We would be concerned that the route into this new order confuses unnecessarily the role of private family decisions with those public services need to make to protect children and meet their needs' (Care Inspectorate).
- Based on current experience, prospective kinship carers may be reluctant to pursue the order (5 mentions).
- The quality of care from kinship carers may be dubious (3 mentions).
- May have the unintended consequence of more children entering the care system due to resource pressures on local authorities (1 mention).

Q27: Can you think of ways to enhance the order, or anything that might prevent it from working effectively?

9.25 One hundred and twelve (38%) respondents answered this question, however, many simply re-iterated views provided in response to the previous question. Fresh views on **enhancing the order** were few, but included:

- providing clear and user-friendly information to kinship carers on their rights (6 mentions)
- addressing what was viewed as the tensions between entitlements to financial support between children in looked after compared with kinship care arrangements. There were calls for a universal benefit to be attached to a kinship care order and paid for through the benefit system (4 mentions)
- ensuring monitoring and review arrangements are in place (3 mentions)
- ensuring that the voices of children are heard in setting up kinship orders (2 mentions)
- considering additional support for older kinship carers such as respite breaks (2 mentions).

9.26 Views on what might **prevent the order from working effectively** tended to go over ground already covered, with a key focus on the need for adequate resourcing of the initiative and ensuring equal access to support available irrespective of geography. Other substantive potential barriers identified were:

- blurring of the distinction between kinship carers and foster carers, with surprise expressed that the latter are included in the list of those entitled to apply (7 mentions)
- disputes and court challenges taking up time and costs (5 mentions)
- lack of joined-up working between agencies to support kinship carers (2 mentions)
- lack of follow-up visits to support kinship carers (1 mention)
- kinship carers who turn out to be unsuitable (1 mention)
- failure of current unofficial kinship carers to meet the criteria for the order (1 mention).

Background to adoption and permanence

9.27 There is evidence that timescales for making decisions about a looked-after child's permanent future home can take too long. Scotland's National Adoption Register (the Register) is a non-statutory service, set up in 2011, and designed to increase the number of adoptions and speed up the adoption process for children, once adoption is identified as the best way to secure a permanent home. To support the moves to achieve effective permanence more quickly, we propose to take powers to put Scotland's Adoption Register on a statutory footing, to make its use compulsory by local authorities and to regulate the way local authorities and relevant other agencies interact with it.

Q28: Do you agree that local authorities should be required to match adoptive children and families through Scotland's Adoption Register?
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9.28 One hundred and thirty seven (46%) respondents answered this question. Of these, 56% agreed with the proposal, 23% disagreed, and 21% neither agreed nor disagreed, but provided relevant commentary. These figures should be treated with caution, however, as on closer examination of the responses it appears that the question proved to be ambiguous and inconsistent with the thrust of the preceding text in the consultation document which referred to **making the use** of the Register compulsory, rather making compulsory the use of the Register **for matching**. Indeed, 8 respondents explicitly stated that whilst they supported the first concept they did not support the second, as other approaches existed to establishing successful adoption matches. One remarked:

'The proposal that all local authorities sign up to the adoption register is welcomed, but it is not appropriate to require all matching to take place through the register' (East Renfrewshire Council Fostering Services).

Respondents tended to frame their responses in terms of advantages and drawbacks to using the Register.

Perceived advantages to the Register

9.29 Where advantages were identified these included:

- will speed up the matching process
- useful in cases of specialist placing, for example on grounds of ethnicity or special needs
- will ensure a consistent approach to matching
- provides another option amongst the current tools for matching.

9.30 Several respondents, however, considered that potential advantages of using the Register relied on a number of factors. A recurring theme was that a local placement, using other matching channels if necessary, should remain the first option for any child. One respondent (Third Sector) suggested a 3 month time limit for this, followed by reference to the Register for more options. Five respondents (including 2 Academic respondents) argued that what they perceived to be the current patchy use of the Register should be investigated prior to any requirement to use it being instigated. Three respondents recommended that the Register be subject to further infrastructure and process development to maximise its usefulness. One remarked:

‘The systems at present are ineffective and would require infrastructure and process development/improvement to ensure that matches are progressed timeously and appropriately’ (East Ayrshire Council).

Three respondents commented that the Register will work best if all local authorities buy in to it. Three further respondents emphasised that as the Register opened up possibilities for placements further afield, it will be important to ensure such placements are adequately supported.

Perceived drawbacks to the Register

9.32 It was commonly felt that the Register might curtail local variation in approaches to securing appropriate placements, and that local authorities should be able to retain the discretion to apply different approaches on a case-by-case basis. A typical comment was:

‘We feel that this should remain part of a menu of national and local options, which can be referred to, particularly when local options and/or other external national options have effectively been exhausted. We are very clear that matching must be in the best interests and the needs of the child and not driven by a register placed on a legislative footing’ (Perth and Kinross Child Protection Committee).

One respondent (Third Sector) suggested that as a compromise there should be a ‘commitment to’ rather than a compulsion to use the Register.

9.33 Another common view was that the Register might result in more placements further afield which had negative implications for attachments, existing trusted relationships, and potential future difficulties in adults tracing their birth family.

9.34 Other perceived drawbacks to the Register identified by 7 or fewer respondents were:

- may result in slowing down the placement process
- the Register is still bedding in and it is too early to plan for further roll out
- the Register may inadvertently result in more efficient placements but at the expense of the best interests of the child.

10. BETTER FOSTER CARE

Background

10.1 As part of the consultation the Scottish Government sought views on proposals for reforms to foster care, but indicated that any changes could be taken forward using existing legislative powers. Reforms to foster care will not be included in the Bill but responses to these proposals will inform the work of the current Foster Care Review. The Scottish Government's vision for formal care is to focus even more on fostering and residential care as intensive, therapeutic interventions which effectively address issues linked to early childhood trauma and neglect – building resilience and supporting a child's wellbeing. The Scottish Government seeks to drive change in all forms of care to create a better fit with early permanence, avoiding drift and delay. It proposes to reform foster care to reflect the increasing expectations on foster care to heal, as well as care for children. To achieve this it needs to enhance the capacity of foster carers from a number of different angles.

Q29: Do you agree that fixing maximum limits for fostering placements would result in better care for children in foster care? Why?

10.2 One hundred and forty eight (50%) respondents answered this question. Of these, around half (53%) agreed that maximum limits for fostering placements should be set; 28% disagreed; and 18% neither agreed nor disagreed but provided relevant commentary.

Reasons in favour of fixing maximum limits

10.3 Where reasons were provided, the most common (25 mentions) was that this would enable children to get a **better standard of care** in their foster homes. It was commented that **overburdening a foster carer could lead breakdowns** in placements and was **not fair on the foster carer's own children**. Five respondents remarked that on occasions **foster carers are placed under pressure** to take more children than they feel comfortable with, and setting a maximum limit would prevent this. Five respondents argued that it is important to restrict numbers in order to address the issues of children with **complex needs**. Three respondents commented that fixing maximum limits served to **reinforce the important role which foster carers play in providing therapeutic care**.

10.4 Eighteen respondents argued specifically for fixed maximum limits with some form of discretion in extraordinary circumstances, for example, a large group of siblings, or emergency babies. One (Health Body) suggested capping numbers for new foster carers but not experienced carers.

10.5 Six respondents alluded to capping initiatives already in place in their location. Suggestions for levels of capping (9 respondents) were largely for a maximum of 3 children unless there were larger numbers of siblings who needed to be kept together. Two respondents considered that a maximum of 4 unrelated children should be the limit.

Arguments against fixing maximum limits

10.6 The most common argument provided (32 mentions) was that placements should be made on a case-by-case basis, and depended on a range of factors such as size of family home, size of foster carer's family, age of child, needs of child and so on. One respondent considered that capping constituted 'a crude and unnecessary measure' (West Dunbartonshire Council).

10.7 There was concern that limiting the number of placements could result in fewer being available and as a result, some children ending up in less suitable care arrangements (11 respondents). Others (9 respondents) argued that the proposal could result in more sibling groups breaking up. It was remarked (2 respondents) that the quality of care is more important than focusing on fixed limits. One view (Other body) was that those placing children into foster care may feel pressure to approve placements right up to the maximum limit.

Q30: Do you agree foster carers should be required to attain minimum qualifications in care?

10.8 One hundred and sixty (54%) respondents answered this question. Of these, 41% agreed, 39% disagreed and 20% neither agreed nor disagreed but provided relevant commentary. However, even where respondents clearly indicated agreement or disagreement, frequently their comments showed that this decision had been reached on balance, having taken account of merits and drawbacks of the proposal.

Reasons given in favour of the requirement to attain qualifications

10.9 There were 2 main reasons given repeatedly in favour of the proposal:

- Qualifications will enhance the skills of foster carers and help them deal with increasingly complex behaviours amongst vulnerable children. '...the task for foster carers is becoming increasingly complex and a minimum qualification should assist them in acquiring the necessary knowledge/skills' (Robert Gordon University, School of Applied Social Studies).
- Qualifications will enhance the status of foster caring.

Three respondents queried whether the proposal to attain qualifications will apply to one person within a foster caring household or other members within the wider household.

10.10 Some respondents qualified their support for the requirement for qualifications:

- only in cases where children have specific needs such as learning disabilities (13 mentions)
- so long as equally valued are the traits of empathy/warmth/attitude and so on (4 mentions)
- only if the qualifications are specific and applicable to looked after children rather than general qualifications relating to well-adjusted development (2 mentions).

Arguments against the requirement to attain qualifications

10.11 The most common concern (44 mentions) about the proposal was that this might discourage potential foster carers, and may lead to drop out of existing carers (especially older people). A typical comment was:

‘This measure could well deter potentially good and nurturing fosterers. We should of course encourage fosterers to seek qualifications and should help to facilitate them in any practical way possible. However, this proposal could have the unintended result of reducing the number of fostering places available’ (West Dunbartonshire Council).

10.12 Other substantive arguments against the proposal were:

- should not try to over-professionalise a parenting role (7 mentions)
- qualifications do not necessarily mean good foster caring (6 mentions)
- this would require substantial resourcing including support for e-learning (4 mentions)
- birth parents do not need qualifications (3 mentions)
- may not attract the right type of person/end up with just one type of foster carer (2 mentions). One respondent remarked:
‘Good foster carers will be this way due to their own life experience and own values, possibly not skills which can be gleaned through courses or textbooks. A system based on qualifications would probably not attract the right kind of person’ (AHDS)
- difficult for formal qualifications to capture the essence of what foster caring is about (2 mentions)
- foster caring is not part of a regulated workforce therefore stipulating qualifications is inappropriate (1 mention).

Alternatives to mandatory qualifications

10.13 Whilst disagreeing with mandatory qualifications, many respondents perceived there to be value in on-going learning opportunities for foster carers to fit with their needs. The notion of a framework of **CPD opportunities**, readily accessible to foster carers on a voluntary basis was proposed repeatedly (18 mentions). Seventeen respondents argued for **making training compulsory** rather than attainment of qualifications. The idea of establishing a **competency framework**, perhaps with local tailoring to circumstance was mooted by 10 respondents.

10.14 Whatever approach is finally decided, a recurring theme was that learning needs to be kept up-to-date and refreshed regularly, with implications for ongoing training and competency maintenance.

Content of training/qualifications

10.15 Several respondents (7 mentions) highlighted that the different learning styles of foster carers will need to be catered for, with verbal and practical assessments considered rather than wholly writing-based qualifications. One respondent argued:

‘We would not wish to lose the opportunity for quality placements due to a foster carer/prospective foster carer’s difficulty in achieving qualification because the ways of ‘teaching’ and assessment toward

the qualifications are contrary to the person's way of learning' (East Dunbartonshire Council).

10.16 Four respondents emphasised the importance of providing e-learning opportunities in order to make learning accessible to busy foster carers and people in rural areas.

10.17 A few respondents proposed topics to include in training and qualifications:

- bonding and attachment
- child development
- emotional/social needs
- minimum standards of care
- understanding of children's rights
- knowledge of speech, language and communication needs
- LGBT inclusion.

Q31: Would a foster care register, as described, help improve the matching by a local authority (or foster agency)? Could it be used for other purposes to enhance foster care?

10.18 One hundred and twenty five (42%) respondents answered this question. Of these, 43% agreed that such a foster care register could help improved the matching by a local authority or foster agency; 27% of respondents disagreed; and 30% neither agreed nor disagreed, but provided relevant commentary. Amongst those who did not think a register would improve matching, were those who considered that there may be other benefits of such a register.

Perceived benefits of a foster care register

10.19 As stated above, a significant minority of respondents considered that a foster care register would help with matching. It was thought that a register may speed up the system particularly where a child has complex needs or is of teen age and where foster carers have developed areas of specialism. One respondent saw a benefit in emergency cases to help prevent a child being moved out of a locality. Nine respondents, however, recommended that the register should be used for permanent fostering rather than localised, temporary fostering.

10.20 Other advantages of a register were identified as:

- Keeping a record of those unfit to be foster carers (16 mentions).
- Management information and planning tool to keep track of where foster carers are located; their skills; their training and qualifications; where gaps exist (11 mentions).
- Enabling greater flexibility for foster carers to move between providers or move across local authority boundaries and not have to go through re-assessment (6 mentions).
- Enhancing the professional status of foster carers and give them greater recognition (3 mentions).
- Bringing consistency in protocol (3 mentions).

- Helping to maintain standards of care as foster carers could be struck off if their care falls below acceptable levels (2 mentions).

Concerns about the proposed register

10.21 The most common concern was that such a register **did not appear to add any value** to the existing process of matching (23 mentions across 5 respondent sectors). One respondent commented:

‘The Fostering Network would welcome a national register and the many advantages it offers but do not see a register being used primarily for matching purposes. Given the high volume of children moving in and out of foster homes on a daily basis, maintaining a register for this purpose would be impractical and unsustainable’ (The Fostering Network).

10.22 Fourteen respondents (including 9 local authorities) were concerned that use of the register may result in more **children being placed outside their locality**.

10.23 Thirteen respondents expressed concern over the **administrative and security aspects** of maintaining the register, including keeping it up-to-date and the information safe.

10.24 Other substantive concerns expressed included:

- The register will need to be adequately resourced (4 mentions).
- Do not want to deter people from applying to be foster carers due to too much bureaucracy and possibly cost of registering (3 mentions).

10.25 Four respondents recommended that foster carers register with SSSC rather than a foster carer register.

Q32: Do you think minimum fostering allowances should be determined and set by the Scottish Government? What is the best way to determine what rate to pay foster carers for their role – for example, qualifications of the carer, the type of ‘service’ they provide, the age of child?

10.26 One hundred and thirty nine (47%) respondents answered this question. Of these, 74% agreed that the Scottish Government should determine minimum fostering allowances; 8% disagreed; and 18% neither agreed nor disagreed but provided relevant commentary. It was generally agreed, however, that determining the minimum allowance is likely to be complex and that payment will rely on the financial support of local authorities.

10.27 Eight respondents considered the question to confuse fees with allowances, one commenting:

‘There needs to be a differentiation between the cost of caring for the child and the fee element provided to foster carers...the consultation document seems to blur these 2 types of payment’ (South Lanarkshire Council).

Arguments in favour of a minimum fostering allowance set by the Scottish Government

10.28 The main argument in favour of the proposal was to promote consistency between local authorities which in turn would ensure equality for fostered children (26 mentions across 6 respondent sectors). Other arguments provided were:

- Will provide a level playing field across local authorities and fostering agencies which will reduce the movement of foster carers between providers (5 mentions).
- In line with the system in England and Wales (4 mentions).
- Allows for independent assessment and review of allowances (Local Authority).
- The value and importance of foster caring is the same across authorities and so the allowance should be the same (Third Sector).

Consideration of determinants of level of pay

10.30 There was variation in view on how to determine what rate to pay foster carers for their role. Views are summarised in Table 9 below.

Table 9: Views on how to determine foster carer rates of pay

Base on qualifications (17 mentions)	Not on qualifications (11 mentions)
Base on commitment to training and training accomplished (3 mentions)	
Base on need of child (28 mentions)	Not on need of child (3 mentions) Reasons: sometimes needs are not clear when rates are set; do not want to label a child 'expensive to place'.
Base on age of child (12 mentions)	Not on age of child (4 mentions) as all stages of a child's life bring challenges.
Base on the service provided by the foster carer (14 mentions)	Not on service provided by foster carer (1 mention)
Base on experience/skills of foster carer (16 mentions)	
In line with advice from Fostering Network (6 mentions)	
Adjust according to local cost of living (e.g. rural areas may cost more) (4 mentions)	
Bonus payment for continuity of placement (2 mentions)	

Arguments against a minimum fostering allowance set by the Scottish Government

10.31 Five arguments were presented by a small minority of respondents:

- The amount of allowance should be set locally to reflect local needs and circumstances (5 mentions).
- Foster carers do not want the current system to change (2 mentions).
- Previous increased amounts recommended by the Fostering Network have been unaffordable (Other body).
- A standard allowance will not reflect different demands of children (Other body).
- Should be based on what local authorities can afford (Local Authority).

ANNEX 1: LIST OF ORGANISATIONS WHICH RESPONDED

Total number of responses = 298

Groups/organisations = 241 (81%)

Individuals = 57 (19%)

(Two further responses were accepted but received too late to be included in the analysis.)

Aberdeen City Council Education, Culture and Sport
Aberdeen City Council Social Care and Wellbeing Services
Aberdeen Early Years and Childcare Partnership
Aberdeen Integrated Children's Services Partnership
Aberdeen Play Forum
Aberdeenshire Council Children's Services Joint Management Group
Aberlour Child Care Trust
Action for Children Scotland
Action for Scotland – Dundee Youth Housing Support Service
Action for Sick Children Scotland
Additional Support Needs Mediation Service Providers Scotland
Advisory Group on Additional Support for Learning
AHDS
Alcohol Focus Scotland
Amnesty International
Angus Council
Anonymous x 7
Argyll & Bute Council
Association of Chief Police Officers in Scotland
Association of Directors of Education Scotland
Association of Directors of Social Work Limited
ATL Scotland
BAAF Scotland
Barnardo's
BEMIS
Bright Horizons
Bòrd na Gàidhlig
British Association for Counselling and Psychotherapy
British Medical Association Scotland
Carmondean Primary School
Camphill Scotland
Capability Scotland
Care and Learning Alliance
CARE for Scotland
Care Inspectorate
Care Visions
Catch the Light
Centre for Excellence for Looked After Children
Centre for Research on Families and Relationships
Child Poverty Action Group
Children 1st
Children in Fife
Children in Scotland

Children's Hearings Scotland
 Children's Parliament
 Childsmile
 Church and Society Council of the Church of Scotland
 Circle
 Citizens Advice Scotland Kinship Care Project
 City of Edinburgh Council
 CI@n Childlaw
 Coalition of Care and Support Providers in Scotland
 Comhairle Nan Eilean Siar
 Comann nam Pàrant (Nàiseanta)
 Community Learning and Development Managers Scotland
 Consultants in Dental Public Health and Chief Administrative Dental Officers in
 Scotland Group
 Convention of Scottish Local Authorities
 Cornerstone
 Counselling and Psychotherapy in Scotland
 Creative Scotland
 Cycling Scotland
 Daycare Trust
 Dean and Cauvin Trust
 Debate Project – Scottish Throughcare and Aftercare Forum
 Dumfries and Galloway Children's Services Partners
 Dumfries and Galloway Council Social Work Services
 Dundee Integrated Children's Services Partnership
 Dyslexia Scotland
 East Ayrshire Council
 East Ayrshire Council Educational & Social Services
 East Dunbartonshire Council
 East Lothian Council
 East Park School
 East Renfrewshire Council
 East Renfrewshire Council Fostering Services
 Edinburgh Primary Headteachers' Association
 Edinburgh Voluntary Organisations' Council (EVOC) and GIRFEC in Edinburgh
 Implementation Team
 Edinburgh Young Carers' Forum
 Edinburgh Young Carers' Project
 Edinburgh Youth Issues Forum
 Education Scotland
 Engender
 Equality and Human Rights Commission
 Falkirk Children's Commission
 Families Outside
 Foster Care Associates Scotland
 Fostering Network
 36 children and young people in foster care submitted by The Fostering Network
 37 children of foster carers submitted by The Fostering Network
 for Scotland's Disabled Children
 Getting it Right for Every Midlothian Child Partnership Enable Scotland

Glasgow City Council
Glasgow Housing Association
Grandparents' Apart UK
Happy Feet Nursery & Out of School Club
Health and Social Care Alliance Scotland
Highland Council and NHS Highland
Home-Start Scotland
Inclusion Scotland
In-control Scotland
Information Commissioner's Office
International Play Association, Scotland Branch
Inverclyde Community Health & Care Partnership, Inverclyde Child Protection
Committee, Inverclyde Council Education Services
Includem
Keys to Inclusion
Kibble Education and Care Centre
Lauder Primary School Parent Council
LGBT Youth Scotland
Looked After Children Strategic Implementation Group, Care Planning Hub
Mental Welfare Commission for Scotland
Mentor UK
Methodist Church in Scotland
Midlothian Association of Play
Mindroom
Moray Council
Moray Educational Psychology Service
National Day Nurseries Association
National Deaf Children's Society
National Parent Forum of Scotland
National Secular Society
New Life Foundation for Disabled Children
NHS 24
NHS Ayrshire and Arran
NHS Education for Scotland
NHS Education for Scotland Children and Young People's Health Support
Group
NHS Fife
NHS Greater Glasgow and Clyde
NHS Grampian
NHS Grampian Aberdeen City Community Health Partnership
NHS Health Scotland
NHS Lanarkshire
NHS Lothian – Child Health Commissioner
NHS Tayside
North Ayrshire Council
North Edinburgh Childcare
North Lanarkshire Council
North Lanarkshire Child Protection Committee
North Lanarkshire Council Housing and Social Work Services
North Lanarkshire Council Learning and Leisure Services

NSPCC Scotland
One Parent Families Scotland
PAMIS
Parenting across Scotland
Parole Board for Scotland
Patter
People First (Scotland) Parents' Group
Perth and Kinross Child Protection Committee
Planning Aid for Scotland
Play Scotland
Psychological Services City of Edinburgh
Quarriers
Relationship Scotland
Renfrewshire Children's Services Partnership
Rights of the Child UK
Riverside Childcare
Robert Gordon University, School of Applied Social Studies
Robert Gordon University, School of Nursing & Midwifery
Royal College of GPs Scotland
Royal College of Nursing Scotland
Royal College of Speech and Language Therapists
Royal Society for the Prevention of Accidents
Royal Society for the Protection of Birds Scotland
SACRO
Save the Children
Schoolhouse Home Education Association
Schools' Management Team, Shetland Islands Council
Scotland's Adoption Register
Scotland's Colleges
Scotland's Commissioner for Children and Young People
Scottish Association for Social Work
Scottish Attachment in Action
Scottish Child Law Centre
Scottish Childminding Association
Scottish Children's Reporter Administration
Scottish Children's Services Coalition
Scottish Coalition for Young Runaways
Scottish Consortium for Learning Disabilities
Scottish Council for Single Homeless
Scottish Council of Independent Schools
Scottish Courts Service
Scottish Directors of Public Health Group
Scottish Human Rights Commission
Scottish Independent Advocacy Alliance
Scottish Legal Aid Board
Scottish Parliament Cross-Party Group on Children and Young People
Scottish Prison Service
Scottish Public Services Ombudsman
Scottish Out of School Care Network
Scottish Parent Teacher Council

Scottish Pre-School Play Association
Scottish Refugee Council
Scottish Secondary Teachers' Association
Scottish Social Services Council
Scottish Throughcare and Aftercare Forum
Scottish Trades Union Congress
Scottish Transitions Forum
Scottish Women's Aid
Scottish Women's Convention
Scottish Young Carers Services Alliance
Scottish Youth Parliament
Sense Scotland
Shakti Women's Aid
Shetland Data Sharing Partnership
Skills Development Scotland
Society of Local Authority Chief Officers
Sportscotland
St Machan's Primary School Parent Council
Stirling Council
Stirling University, Social Work Section, School of Applied Social Science
South Ayrshire Council
South Lanarkshire Council
South West Scotland Community Justice Authority
Southwest Kinship Care Group
Stepping Stones for Families
Strathclyde Fire and Rescue
The Adolescent and Children's Trust (TACT)
The Association of Scottish Principal Educational Psychologists 2. The Scottish
Division of Educational Psychologists
The Educational Institute of Scotland
The Law Society of Scotland
The Poverty Truth Commission
Tillicoultry Primary School
Together (Scottish Alliance for Children's Rights)
UNICEF UK
UNISON
Unite the Union
VOX
West Dunbartonshire Council
West Glasgow Grandparent Support Group
West Lothian Council
Who Cares? Scotland
WithScotland
Working Together with Parents Network
YWCA Scotland
Youthlink Scotland
YPeople

ANNEX 2: VIEWS ON ASSESSING IMPACT

Equality Impact Assessment (EQIA)

The public sector equality duty requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. A comprehensive EQIA will be developed using the partial EQIA already prepared for this consultation and taking into account the views of a wide range of stakeholders throughout the Bill consultation period.

Q33: In relation to the Equality Impact Assessment, please tell us about any potential impacts, either positive or negative, you feel the legislative proposals in this consultation document may have on any particular groups of people?

One hundred and one (34%) respondents provided commentary in response to this question. However, many of these simply stated that the partial EQIA appeared to be comprehensive, or that they noted that a fuller EQIA would be developed in the future.

One recurring recommendation was for a Children's Rights Impact Assessment to be undertaken in addition to a EQIA.

A common remark was that looked after children and young people stood to gain most from the proposals. Also singled out were:

- parents (particularly women) who wish to return to work/education and who will benefit from increased flexibility of childcare arrangements
- parents of disabled children
- disabled parents
- older young people due to the extension of access to provision up to 25 years.

Several respondents identified potential losers as a result of the proposals:

- children in kinship care arrangements who may not be able to access the statutory entitlements of their looked after counterparts
- those not in need or with low level needs from whom funding may be diverted to support the proposals
- children who have just moved out of looked after status
- those just below the threshold for statutory measures
- parents - their rights and view points were perceived as having been given low priority in the proposals
- women and children living with domestic abuse may be put at risk if there is any lax protocol relating to data security and sharing
- all early years children from whom the education aspect of their care may be diluted
- looked after children who may be stigmatised by the proposals.

Many respondents identified specific groups whom they felt had not received adequate consideration in the consultation and proposals:

- children with disabilities

- children with learning disabilities
- children with additional support needs
- children with profound and multiple learning difficulties
- children from minority ethnic communities
- travellers
- young carers
- young people aged 16+
- young offenders
- children of offenders
- children with dyslexia
- victims of human trafficking
- asylum seekers
- vulnerable U-2s
- those in transition from children's to adults' services
- children who are home educated
- LGBT young people
- children with requirements related to their religion
- men and their role as primary care givers.

Q34: In relation to the Equality Impact Assessment, please tell us what potential there may be within these legislative proposals to advance equality of opportunity between different groups and to foster good relations between different groups?

Eighty five (29%) respondents provided commentary in response to this question. Many of these simply referred to earlier responses. A recurring comment was that by focusing on early years and young people, the proposals would promote equality of opportunity amongst adults from different backgrounds in future years.

The proposals were viewed in general as providing a range of opportunities for advancing equality of opportunity and fostering good relations between different groups. Those specifically mentioned were:

- more effective joint working between partners due to clearly designated roles
- more consistency across different local authority areas
- greater equality between kinship carers and cared for, and others
- more engagement with young people/carers/parents
- equalities training for all professionals involved
- supporting parenting and in particular promoting men as primary care givers along with women
- promoting greater diversity in the early years, children and young people workforce
- raising the profile/awareness of rights
- provision for those for whom English is not their first language
- addressing the particular challenges associated with rurality.

Business and Regulatory Impact Assessment (BRIA)

A comprehensive EQIA will be developed using the partial BRIA already prepared for this consultation and taking into account the views of a wide range of stakeholders throughout the Bill consultation period.

Q35: In relation to the Business and Regulatory Impact Assessment, please tell us about any potential economic or regulatory impacts, either positive or negative you feel the legislative proposals in this consultation document may have, particularly on businesses?

Seventy three (24%) respondents provided commentary in response to this question. Most comments were general in nature and were in agreement that many of the proposals had significant cost implications for the public sector at a time of budgetary restraint, which may require more emphasis on prioritising policies and services.

Calls were made for detailed costs to be attached to the proposals, and more prominence and consideration given to the potential contribution of the private sector.

A recurring theme was that although the proposals put much demand on current resources, this should pay off over the longer term with fewer problems and demands on care services.

The private sector (nurseries in particular) was viewed by many as one of the most significant benefactors from the proposals. Parents wishing to return to work were also seen as benefitting from the proposed greater flexibility in childcare provision.



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