

Who Cares? Scotland

Response to Consultation on the Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill.

January 2018



Who Cares? Scotland [WC?S] is an independent advocacy and influencing organisation working with care experienced people. We provide direct advocacy to care experienced young people, as well as opportunities for national and local participation. WC?S aims to provide looked-after children and young people in Scotland with knowledge of their rights. We strive to empower them to positively participate in the formal structures they are often subject to solely because of their care experience. At WC?S we utilise the voice of the care experienced population of Scotland to inform everything we do as an organisation.

Introduction:

We welcome that one of the central aims of the Education (Scotland) Bill 2018 is to improve educational outcomes for all young people. We strongly believe this aspiration cannot be realised without acknowledging and addressing the specific needs of Scotland's care experienced children and young people within our education system.

Under the Children (Scotland) Act 1995, 'looked after children' are defined as those currently in the care of their local authority.¹ This includes children who are currently living in residential units or secure units; in foster placements; living with adoptive families or in permanence arrangements; in kinship care with a family member that is not a parent or looked after at home, where they may still live with parents but have home supervision from a social worker. 'Care experienced' is a much wider term which includes not only those who are currently 'looked after children' but also children, young people and indeed adults, who have previously experienced the care system for any period of time. Although it is not the statutory term, it is all inclusive, and is a universally accepted expression that Who Cares? Scotland (WC?S) uses in all reports. Young people tell us that they prefer being referred to as "care experienced" as it shifts the emphasis from the provider to the subject of care.

There is continuing evidence that educational outcomes for care experienced young people are poor in comparison to their non-care experienced peers. Trauma, mental ill health, stigma, frequent placement moves, and chaotic living arrangements are all examples of how a young person's experience of education can be affected by being in care.

¹ <https://beta.gov.scot/policies/looked-after-children/children-looked-after-at-home/>

To take one key factor, consider the rate of exclusions of care experienced students - 218 formal exclusions per 1000, in comparison to only 27 per 1000 for their non-care experienced peers.²

Given these continuing issues it is perhaps unsurprising that 73% of looked after young people leave school before the age of 16 as compared with 27% of all school leavers.³ Leaving school early usually means leaving with less qualifications; only 40% of care experienced young people leave with one or more qualifications at SCQF level 5 or better, while 86% of all school leavers achieve this level.⁴ In 2015/16, three months after leaving school only 5% of looked after young people went straight on to higher education, compared to 40% of their non-care experienced peers.⁵ Clearly much still needs to be done to ensure excellence and equality in educational for care experienced young people.

Whilst we believe this bill is a chance to continue building an education system in Scotland that works to eradicate the inequality of educational outcomes for the care experienced population, we also advise an expansion of how successful outcomes are understood. Alongside educational attainment, a young person's wellbeing, self-confidence, and participation in their community are also vital outcomes of a successful education.

This legislation provides an important opportunity for schools to fulfil their corporate parenting duties, as set out in the Children and Young People (Scotland) Act 2014. Corporate parents are the public bodies which have a duty to collaborate with each other to promote the wellbeing of care experienced children and young people and enable them to achieve the best outcomes possible.⁶

The six corporate parenting duties are:

- a) to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies,
- b) to assess the needs of those children and young people for services and support it provides,
- c) to promote the interests of those children and young people,
- d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing,
- e) to take such action as it considers appropriate to help those children and young people—
 - i. to access opportunities it provides in pursuance of paragraph (d),
 - ii. to make use of services, and access support, which it provides, and

² Scottish Government, 2016, Education Outcomes for Scotland's Looked After Children, 2014/15. <https://beta.gov.scot/publications/education-outcomes-looked-children-2014-15/pages/6/>.

³ Scottish Government, 2017, Education Outcomes for Scotland's Looked After Children, 2015/16. <https://beta.gov.scot/publications/education-outcomes-looked-children-2015-16/pages/3/>

⁴ *Ibid.*

⁵ *Ibid.*

⁶ For further information on corporate parenting please see: <http://www.corporateparenting.org.uk/>

- f) to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people⁷

We will set out how we think this Bill can help provide schools with the extra support and considerations necessary to become good corporate parents and work to fulfil these corporate parenting duties, to ensure that care experienced children and young people thrive in our education system.

Question 1

The Headteachers' Charter will empower headteachers as the leaders of learning and teaching and as the lead decision maker in how the curriculum is designed and provided in their schools. What further improvements would you suggest to enable headteachers to fulfil this empowered role?

We believe this is an opportunity for headteachers to lead the way in schools as champions for care experienced students.

To achieve this aim, alongside empowering headteachers as the leaders of learning and teaching and the lead decision maker in how the curriculum is designed, the Charter should reinforce the role of headteachers as the lead corporate parent for their school. All those working within state education are corporate parents. To meet their corporate parenting duties, they need to understand the experiences that someone growing up in care might have. Until educators are fully aware of the circumstances in which care experienced children and young people live and have knowledge of the evidence that details how poor outcomes are, they will not be able to effectively meet their educational needs.⁸

Headteachers need to play a lead role in making this a reality and we recommend that the Charter both empowers and requires headteachers to take responsibility for ensuring staff at all levels understand their duties as corporate parents and are supported and enabled to fulfil them.

The Charter should empower headteachers to engage with the following key issues:

Ensuring Additional Support Provision:

The Education (Additional Support for Learning) (Scotland) Act 2004, amended in 2009, deems all looked after children to have additional support needs, unless assessed otherwise. However, this legislation is currently not fully implemented, and we know from the young people we work with that many have not been offered the extra support they need to succeed at school.⁹

Young people deemed to have additional support needs have a statutory right to be assessed for a Coordinated Support Plan (CSP). However, our advocacy experience informs us that very few care experienced young people are aware of being assessed by their local authority. This anecdotal evidence is supported by freedom of information requests, submitted by the Govan

⁷ Section 58, Children and Young People (Scotland) Act 2014.

⁸ Who Cares? Scotland, July 2015, *Response to the Commission on Widening Access Call for evidence*.

⁹ Who Cares? Scotland, December 2016, *Response to the Consultation on Empowering teachers, parents and communities to achieve excellence and equity in education: A Governance Review*.

Law Centre, which revealed only 2.9% of looked after children with additional support needs have been assessed as requiring a CSP.¹⁰

This is further supported by information from the Centre for Excellence for Looked After Children in Scotland (CELCIS) who report that feedback from the workforce suggests authorities are often not assessing looked after children for their suitability for a CSP, sometimes due to not understanding that they have a right to this under legislation and other times, perhaps more concerningly, that they don't have the resources available to meet the needs that a coordinated support plan would identify.

In addition, we have heard from young people that, even where additional support needs are identified, this information is not always passed over when a young person transitions from one educational setting to another, with additional support not being made available in the new setting as a result.¹¹

We would like to see headteachers using their newly empowered role to make sure there is additional support for learning for care experienced students and that the duty to assess care experienced students for additional needs is fulfilled, and recommend the Charter sets out this expectation.

Designing a Flexible Curriculum:

We know from the young people we work with, that being in care can affect how they engage with the curriculum and how they achieve in exams.¹²

For example, we have spoken to care experienced young people about the specific effects of attending Children's Hearings. The Children's Hearing System is Scotland's unique care and justice system for children and young people. It aims to ensure the safety and wellbeing of vulnerable children and young people through a decision making lay tribunal called the Children's Panel.¹³ Yet, the effect of attending a Children's Panel covers a range of areas including disruption to education and emotional impact.

In Scotland, Hearings take place on weekdays during daytime hours. Therefore, the majority take place during school hours. We know disruption impacts on educational outcomes and young people report that disruption caused by Hearings negatively affects their education. For some children and young people, there can be the expectation that they attend a Children's Hearing several times throughout a school term. This means during one term of school, their education will be disrupted frequently – something which is not experienced by their peers.

In addition to the disruption to attendance at school, many young people have told us about the emotional impact that attending a Children's Hearing can have. Discussions held during a Hearing will often revisit past trauma. Additionally, children and young people will often be exposed to difficult discussions about their family and/or their care. To then return to school

¹⁰ Govan Law Centre, 2015, *GLC research reveals systemic failure of councils to meet education duties for 'looked after' children in Scotland*. <http://govanlc.blogspot.co.uk/2015/05/glc-research-reveals-systemic-failure.html>. Last accessed 22/01/2018.

¹¹ *Ibid.*

¹² Who Cares? Scotland, March 2017, *Assessment Arrangements Young Radicals report*.

¹³ <http://www.chscotland.gov.uk/the-childrens-hearings-system/>

immediately after this, can be challenging for the child or young person. One WC?S advocacy worker spoke about a 6 year old who struggled on return to school after attending a Children's Hearing:

"Teachers and Social Work have stated that before, during and after a panel he gets extremely distressed. On one occasion family drug use was spoken about during the Hearing and on returning to school, he repeated this information to his peers."

This result is not only emotional impact on the child, but the potential for bullying to take place from other pupils within the school.

Headteachers must ensure that their school understands the disruption in attendance that care experienced students may have and should make sure they provide flexibility to these students to compensate.¹⁴

We would like to see the option for flexible deadlines for coursework and the option to tailor the way care experienced students take exams – should they want or need this. This is based on the opinions of a focus group held with care experienced young people on their experience of taking exams and assessments at school.¹⁵ Several of the young people we spoke to highlighted how the experience of an assessment, especially in exam conditions, was impacted by their experience of care:

"My exam stress is combined with stress from moving placements and not knowing where I'm going to be living!"

"I don't think the additional stress I experience is accommodated the way other people's stress is."¹⁶

Leading on Exclusions Policies:

Headteachers will often be the ultimate decision-maker when it comes to exclusions. In this newly empowered role, we expect headteachers to be aware that exclusions are disproportionately applied to care experienced students. As mentioned above, Scottish Government statistics highlight that the exclusion rates for care experienced pupils are unacceptably high with 218 formal exclusions per 1000 for care experienced young people in comparison to only 27 per 1000 for their non-care peers⁸.

Clearly this is a significant barrier to education and we must question whether excellence and equity for all is possible if exclusions for care experienced young people remain at this disproportionate rate. We are aware that certain local authorities (e.g. Renfrewshire) have a non-exclusion policy for care experienced pupils and will not exclude a care experienced pupil unless this has been signed-off by a senior Council Officer. However, there is no national policy on this issue and, even in a given local authority, practice can vary from one school to another.

¹⁴ Who Cares? Scotland, 2016, *Children's Hearings and Exams: Making education a priority for Corporate Parents, Education Brief.*

¹⁵ Who Cares? Scotland, March 2017, *Assessment Arrangements Young Radicals report.*

¹⁶ *Ibid.*

There is also a danger that a formal non-exclusion policy will simply lead to reduced timetables or other ways of removing a child from the classroom.

As such, we believe that, in this newly empowered role, headteachers should ensure that a non-exclusion policy for care experienced young people is introduced in their school, with implementation of that policy properly supported to ensure best practice. We believe the Charter should make it clear that this is an expectation for all headteachers.

Question 2

The Headteachers' Charter will empower headteachers to develop their school improvement plans collaboratively with their school community. What improvements could be made to this approach?

The aim that school improvement plans will reduce the inequalities of outcomes of a school's student population can only be realised by acknowledging that care experienced students are disadvantaged in educational systems and are proven to have poorer outcomes educationally.¹⁷ Headteachers, as lead corporate parents in their schools, should include a specific section in school improvement plans to understand the needs of care experienced students. We strongly believe headteachers should undertake this process by actively involving care experienced students and listening to their views and opinions to ensure they participate in decisions regarding what they need to succeed, not just academically but also in whichever ways are important to them. For an example of how this can work in practice please see the "*Impact Story: Champions Boards in Schools*" section of the recent Life Changes Trust report on Champions Board activity across Scotland.¹⁸

Question 3

The Charter will set out the primacy of the school improvement plan. What are the advantages and disadvantages of this approach?

The primacy of a school improvement plan presents an opportunity to ensure headteachers meet their corporate parenting duties. However, a potential disadvantage is that school improvement plans may overlook the needs of care experienced students. We suggest the Charter should make it clear that school improvement plans emphasise the need for schools to fulfil the corporate parenting duties set out in existing legislation.

Question 4

The Headteachers' Charter will set out the freedoms which headteachers should have in relation to staffing decisions.

- a. What are the advantages and disadvantages of headteachers being able to have greater input into recruitment exercises and processes adopted by their local authority?

The freedom over staffing decisions could be used to create positive action to employ more

¹⁷ Scottish Government, 2017, Education Outcomes for Scotland's Looked After Children, 2015/16. <https://beta.gov.scot/publications/education-outcomes-looked-children-2015-16/pages/3/>

¹⁸ Life Changes Trust, 2018, *Champions Boards Impact and Learning Report Year One: 2016-2017*

care experienced people within schools.

Question 5

Should headteachers be able to decide how the funding allocated to their schools for the delivery of school education is spent? If so, what is the best way of doing this?

When deciding how funding is allocated, headteachers must ensure they are creating equalities of educational outcomes for their care experienced students.

More power in deciding how funding is allocated, should therefore come with safeguards to ensure resources are allocated to helping care experienced individuals in schools and to fulfilling corporate parenting duties.

Question 6

How could local authorities increase transparency and best involve headteachers and school communities in education spending decisions?

It is important that action taken to involve school communities in spending decisions includes carers, wider support networks for care experienced children and young people and care experienced children and young people themselves.

Question 7

What types of support and professional learning would be valuable to headteachers in preparing to take up the new powers and duties to be set out in the Headteachers' Charter?

All headteachers should have corporate parenting training to help them understand how these powers and duties can be used to support their care experienced students. We would recommend a specific corporate parenting training or e-learning course is created to support headteachers fulfil their role as lead corporate parents in their schools.¹⁹

Headteachers may also benefit from training to assist them in creating meaningful participation that leads to decisions which include the views and opinions of care experienced students. We believe this type of participative decision-making will ultimately lead to better decisions that drive improvements and ensure the attainment gap for care experienced children and young people is closed.

Question 8

Are the broad areas for reform to the Scottish Schools (Parental Involvement) Act 2006 correct?

Broadly they seem correct, however the reforms need to ensure that the voice of care experienced pupils is represented on parent forums and councils. Most pupils can rely on their parents to speak up for them and fight their corner yet care experienced pupils will often not have this option. We would suggest that other processes need to be developed to make sure the diversity of the school community represented on Parent Councils includes care experienced voices. One option could be to include advocacy workers. This would be

¹⁹For more details on our corporate training e-learning courses, please see: <http://www.corporateparenting.org.uk/home/how-to-use-the-learning-hub/>

particularly helpful as an advocacy worker's role is to only represent the views and opinions of the children and young people they support.

Question 9

How should the Scottish Schools (Parental Involvement) Act 2006 be enhanced to ensure meaningful consultation by headteachers with parents on substantive matters of school policy, improvement planning and curriculum design?

Again, we would like to reinforce that assuming all pupils have parents that are present and/or actively engaged in their child's education must be avoided in the wording of this legislation. There must be clear options, and encouragement, for alternative individuals that hold meaningful relationships with a child or young person in the care system to be involved with school policy, improvement planning and curriculum design.

Question 10

Should the duties and powers in relation to parental involvement apply to publicly funded early learning and childcare settings?

To repeat the above, the parameters set around what constitutes 'parental engagement' may penalise those students who are without parental involvement. As such, all types of carers that support children and young people in care should be involved.

Teachers and schools need to act as corporate parents and support care experienced students' education. This includes ensuring their voice, needs and opinions are represented in parental and community engagement processes.

Question 11

Should the Bill include a requirement that all schools in Scotland pursue the principles of pupil participation set out in Chapter 3? Should this be included in the Headteachers' Charter?

Meaningful participation contributes to an individual's sense of belonging in a community and makes them feel valued and included. By implementing a strong participation process in schools, they will become places which have the potential to allow care experienced students to feel part of a community outside of their care placement or family setting. As such, we strongly agree that there should be a requirement to pursue the principles of pupil participation and we feel this should be included in the Headteachers' Charter.

However, we know from the young people we work with that they experience barriers to participating in school, such as high rate of exclusions and experience of bullying due to the stigma of being in care. Therefore, headteachers and schools must ensure they take extra efforts to ensure the opportunities are accessible to their care experienced students. Whilst chapter 3 does currently state:

"We must help young people understand and exercise their rights regardless of age, gender, ethnicity and background."

We would like to see specific reference to the importance of supporting care experienced pupils to participate. This would be firmly in line with the corporate parenting duties that apply to all schools.

Question 12

What are your thoughts on the proposal to create a general duty to support pupil participation, rather than specific duties to create Pupil Councils, committees etc...?

We do not have a strong view either way but emphasise that, whether general or specific, the duty should include a requirement to put measures in place to ensure that participation will include care experienced children and young people by helping them overcome the specific barriers they experience.

Question 13

Should the Bill include provisions requiring each local authority to collaborate with partner councils and with Education Scotland in a Regional Improvement Collaborative?

In corporate parenting legislation, there is already a duty on local authorities to collaborate with other local authorities across Scotland, to fulfil corporate parenting duties. Therefore, it would be beneficial to include further duties to make sure that local authorities collaborate at a regional level.

However, regional level collaboratives must make sure that local needs are met and that high performing schools in regions do not obscure those which are struggling. Alongside CELCIS, we are concerned local authorities may not remain in charge of funding for additional support needs. Each local area may have varied needs and there is a danger that if these financial decisions are brought up to a regional level, local needs will not be fully met.

These regional bodies must also strive to work with care experienced children and young people to improve their wellbeing, attainment and outcomes in a participatory process. It is only by including children and young people's perspectives that these bodies will understand how schools are supporting care experienced pupils to succeed.

We would also agree with CELCIS that Regional Improvement Collaboratives should look beyond closing the attainment gap and consider other forms of success in education – such as achieving excellent wellbeing for students as outlined in GIRFEC. There is a worrying lack of mention of the need to help children and young people in school to achieve more than good grades, but also develop into active, healthy and happy individuals.

Question 14

Should the Bill require each Regional Improvement Collaborative to maintain and to publish annually its Regional Improvement Plan?

We welcome the need to publish a Regional Improvement Plan and suggest that these plans should include regionally specific data on outcomes and improvements for care experience pupils.

Evaluation of progress on how regional level plans have helped care experienced children and young people can then help meaningful change occur.

Question 15

If we require Regional Improvement Collaboratives to report on their achievements (replacing individual local authority reports), should they be required to report annually? Would less frequent reporting (e.g. every two years) be a more practical and effective approach?

We think that Regional Improvement Collaboratives should have to report annually, as this creates a higher level of accountability. However, regional reports on achievement should be published alongside local authority reports and should not necessarily replace them.

The Regional Improvement Collaborative reports could instead report on collaborative activity and summarise relevant individual local authority reports. This would avoid the danger that a large regional level report covering several local authorities will miss out areas of improvement required for an individual local authority.

Question 17

Are the proposed purpose and aims of the Education Workforce Council for Scotland appropriate?

There are a range of professions which include education in their remit, so the criteria for which professionals the Education Workforce Council would cover, must be thoroughly outlined. In particular, consideration should be given to professionals who work alongside care experienced children and young people

We also recommend the Council would need a clear set of standards which should include an aim to benefit care experienced children and young people.

Question 18

What other purpose and aims might you suggest for the proposed Education Workforce Council for Scotland?

We think it is important that the purpose of the Education Workforce Council is to create high quality outcomes for all learners and that there is an emphasis on improving the poorer outcomes of care experienced children and young people.

Question 19

Are the proposed functions of the Education Workforce Council for Scotland appropriate?

The proposed functions seem broadly appropriate; however, we would like to see a more explicit aim to reduce inequality in attainment and outcomes for care experienced children and young people.

Question 20

What other functions might you suggest for the proposed Education Workforce Council for Scotland?

As stated previously, there is currently not enough emphasis on its function as a body which will aim to reduce inequality of outcomes in education. For example, we recommend one of the Council's functions should be around ensuring the education workforce receives training on their duties as corporate parents.

Question 21

Which education professionals should be subject to mandatory registration with the proposed Education Workforce Council for Scotland?

We would suggest that any educators in care placement settings should be included in the mandatory registration, with a focus more generally on signing up professionals working in non-mainstream schooling environments.

Question 23

Which principles should be used in the design of the governance arrangements for the proposed Education Workforce Council for Scotland?

The governance arrangements should involve the participation of children and young people and specifically should include care experienced children and young people's voices and opinions. The Education Workforce Council should therefore ensure that it listens to the children and young people it seeks to support, to ensure high quality education in Scotland.

If you wish to discuss the content of this response, please get in touch:

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