

Who Cares? Scotland's Submission to the United Nation's 2021 Day of General Discussion on Children's Rights and Alternative Care

Alternative Care in Scotland and Paths to Change

Who Cares? Scotland is a rights-based advocacy and influencing organisation working with people who have experience of the care system through individual and collective independent advocacy. We aim to provide Care Experienced people with knowledge of their rights and the support needed to empower them to positively participate in the formal structures and processes they are often subject to solely because of their care experience.

We have continually campaigned on behalf of Care Experienced people in Scotland to improve alternative care. Our strategic vision is that all Care Experienced people have a lifetime of Equality, Respect and Love and a core part of realising that vision is our belief that the provision of care in Scotland must improve fundamentally. As part of this work, we campaigned with our Care Experienced members for an [Independent Care Review](#), which was announced in 2016 and published findings in February 2020. Named 'The Promise', the findings of the care review have led to widespread support from across Scotland's care sector to make wide-reaching changes. [The Promise](#) is now a body responsible for driving the work of change demanded by the findings of the Independent Care Review, which we fully support. We recommend the committee [read the findings and evidence base](#) collated by the Independent Care Review in Scotland, to gain a full understanding of how high-quality care can be delivered.

Implementing The Promise involves supporting the current ['Plan 21-24'](#) which details the first steps to start transforming alternative care in Scotland. In this response, we have outlined several areas of policy and practice that we will be actively supporting to improve alternative care in Scotland in the next 3 years. We encourage the Committee to engage directly with The Promise team to understand the depth and breadth of working taking places across Scotland's alternative care sector to realise the first stages of implementation of their findings. We have also shared a brief insight into our work capturing the impact of the Covid-19 pandemic on Care Experienced people we support and have shared changes we feel would mitigate additional risks in the context of the pandemic.

Strengthening the Right to Education

The Promise recognises several critical areas of support which should be strengthened if the Right to Education (Article 23 of the UNCRC) is to be realised for all Care Experienced children and young people. The provision of mentoring, early support and an ending of school exclusions will each play an important part, however, we also recognise the importance of addressing the cultural and environmental barriers which can exist throughout schools and communities. Part of our work involves delivering a public education approach to schools in Scotland, including a variety of activities such as school assemblies, workshops with students and actively promoting positive conversations about alternative care as part of the curriculum. We believe that by creating empathic environments, addressing the stigma and lack of

knowledge about care experience within schools, such initiatives to improve access to quality education identified by the Promise have greater chance of success.

Protecting Sibling Relationships

The separation of brothers and sisters is common for children in alternative care in Scotland. Research has estimated that around 70% of children in care experience separation from siblings.¹ We are a proud member of the [Stand Up for Siblings](#) partnership, a collaboration between a number of child welfare, children's rights and legal organisations, public bodies and academics within Scotland. We started to work together in 2017 because we believe that more must be done to protect the sibling rights and have drawn attention to the importance of sibling relationships, particularly how they impact on an individual's identity and experience of family life. This collaboration has helped to influence national policy and legislative change, such as provisions in the Children (Scotland) Act 2020.

The Promise has explicitly called for strong sibling relationships to be a foundation for the future of alternative care. Children must be supported to live with their families wherever possible, but if that is not possible, children must stay with their brothers and sisters where safe to do so and belong to a loving home, staying there for as long as needed. Sibling must be supported to keep in touch, and their rights to be part of decision-making about their brothers and sisters respected. We are already starting to see how Care Experienced people are influencing changes to alternative care in their local context. In 2021, Renfrewshire's Education & Children's Service Policy Board unanimously endorsed a new sibling-related policy designed by the Renfrewshire Champions Board.² The 'Keeping Brothers and Sisters Together' policy is an important example of local influencing led by our Care Experienced members. We will continue to work with local and national partners to ensure sibling relationships are *"cherished and protected"*³ not only in the creation of policy and legislation, but also in implementation to ensure that Care Experienced people benefit from this in practice.

Independent Advocacy and Protecting Rights Lifelong

The Promise rightly states that we must not hold a *"presumption that rights and entitlements can only be achieved through advocacy and litigation."* Proactive measures of rights protection will always be of paramount importance. However, we must ensure that those who experience state intervention in their lives are equipped to understand and address rights violations if they do occur and are able to access supportive provision whenever they require it. Independent advocacy provides both preventative and reactive rights protection through education, ensuring knowledge of entitlements and empowering people to hold duty bearers to account. This offer is critical for children currently in care, as well as Care Experienced adults. For this reason, it is essential that provision across Scotland meets the principles set out in The Promise and is accessible for Care Experienced people throughout their lives.

We have [supported the journey to Incorporate the UNCRC into Scots Law](#) to create a stronger legal framework which can ensure services such as independent advocacy are available to children in order to have their rights realised in practice. We have worked alongside partners, such as Together (Scottish

¹ Jones, C., Henderson, G., & Woods, R. (2019) Relative strangers: Sibling estrangements experienced by children in out-of-home care and moving towards permanence. *Children and Youth Services Review*, **103**, pp 226-235.

² [Renfrewshire Council passed their new 'Keeping Brothers and Sisters Together' policy at their Education and Children's Services Policy Board on 20th May 2021. Video available online, watch from 38 minutes onwards.](#)

³ [All italicised quotes are from 'The Promise' findings, published by the Independent Care Review in 2020.](#)

Alliance for Children’s Rights), to ensure that UNCRC incorporation explicitly names advocacy as an important part of effective implementation. We believe incorporation will allow both pro-active duties to uphold children’s rights and provide ways for people to see redress for rights failings through the courts and by using other complaints mechanisms.

Children and young people experiencing alternative care are also subject to many formal decision-making forums, for example Children’s Hearings in Scotland. The importance of advocacy in supporting the voice of the child to be heard in these types of forms has been recognised by the Scottish Government, with the introduction of [national advocacy provision to support the Children’s Hearing System](#). This support is legislated for in [Section 122 of the Children’s Hearings \(Scotland\) Act 2011](#) that came into force in late 2020. These provisions place a duty on the Chair of the Children’s Hearing to inform the child of advocacy services. We are a key partner that delivers independent advocacy across all 32 local authorities in Scotland and understand how vital the role of advocacy is in realising participation rights for children in alternative care.

However, there is much more to do for independent advocacy to be available to all those who may need it. We believe independent advocacy must be available to Care Experienced people of all ages. This links with future legislation being proposed by the [National Taskforce for Human Rights](#) in Scotland that could allow the rights of Care Experienced people to be protected lifelong. Our Care Experienced members believe rights protections should last into adulthood for all people who have experienced alternative care in childhood.⁴

Independence in the provision of advocacy is also fundamental to providing high-quality alternative care and we firmly agree with The Promise that advocacy should be *“structurally, financially and psychologically separate from statutory organisations and service providers.”* In practice, this means independent advocacy provision cannot be provided for Care Experienced people by an organisation who has a conflict of interest, such as those who provide care services.

Building Community Support for Care Experienced People

The Promise also focuses on the importance of building community support and connection. We know Care Experienced people’s communities are crucial for their sense of self and their connection with others. In its articulation of the ‘People’ foundation, the Promise states *“the children that Scotland cares for must be actively supported to develop relationships with people in the workforce and wider community, who in turn must be supported to listen”*.

We have developed a ‘Communities that Care’ community development model, which creates space for connection, knowledge of rights and identity, peer and public education, and local-level influencing. This is delivered in a variety of ways, from creating youth and community spaces for Care Experienced people to meet and connect, to delivering education sessions about Care Experience in local schools. We believe that investment in community-based supports should consider the needs of the community in helping to tackle stigma and exclusion of people who have experienced alternative care.

Improving Mental Health Support

⁴ [Who Cares? Scotland \(2020\). Navigating the World of Rights, Full Report.](#)

The Promise states: *“Some children who have experienced trauma told the Care Review that being taken into care and growing up in the ‘care system’ was among the most traumatising experiences they had ever had.”* As an organisation, we know that the mental health of Care Experienced people needs far more support and focus when delivering alternative care provision in Scotland. We also know that 9 out of 10 children who have been abused or neglected at a young age will develop a mental health problem by the age of 18.⁵ Studies show a strong link between childhood trauma and adult mental ill- health⁶ and people's experiences of the care system contributes to poor mental health.⁷ Care Experienced young people are approximately four times more likely to have a mental disorder than children living in their birth families.⁸

Our Care Experienced members care passionately about the need to improve mental health services and support, which work for their needs and do not just focus on crisis care. We also know that a large proportion of Care Experienced people are seeking independent advocacy from our organisation for issues related to their mental health. The mental health of Care Experienced people has also been significantly impacted by the Covid-19 pandemic and has increased need for urgent change and improvement of mental health support available.

The Impact of Covid-19: Exacerbating Inequality

As we work to implement the first stages of change outlined by The Promise, it is important we understand how the world has changed for Care Experienced people due to the Covid-19 pandemic. The challenges faced by people experiencing alternative care in Scotland have been sharpened by the multi-faceted impacts of living during a public health crisis. In [February 2021 we published our Covid-19 Recovery Report](#), setting out evidence we have gathered from our advocacy work and by speaking to our Care Experienced members to understand their experiences. We saw the inequality Care Experienced people at all ages and life stages faced during the pandemic, from having family relationships and contact disrupted due to formal processes being impacted, to being digitally excluded from accessing opportunities as interactions with the outside world switched to being solely online, to experiencing severe financial and material poverty as jobs were lost overnight and income for families destabilised.

From this work, we identified vital action needed to mitigate additional protection risks in the context of the COVID-19 pandemic and many of these issues chime with actions outlined in the [Plan 21-24](#):

- Statutory support services must not withdraw services for Care Experienced people during times of public health crisis. This recognises the acute vulnerabilities associated with being less likely to have a support network of family, which many of us leant on during the pandemic.
- The impact of the pandemic on the mental health of Care Experienced people is a serious ongoing issue, with long-term consequences beyond the easing of lockdown. Care Experienced people of all ages must be prioritised in the provision of mental health services at all levels. Recovery from the pandemic must be an opportunity to understand fully the needs of the Care Experienced community in relation to their mental health and in the designing and funding of current and future services to meet those needs.

⁵ [NYAS \(2019\), *Looked After Minds: Prioritising the Mental Health of Care-Experienced Children and Young People*.](#)

⁶ [Who Cares? Scotland \(2016\) *Mental Health in Scotland: A 10-year vision*.](#)

⁷ [NSPCC \(2015\) *Achieving emotional wellbeing for looked after children*.](#)

⁸ [NSPCC \(2015\) *Achieving emotional wellbeing for looked after children*.](#)

- There must be increased financial support available long-term to combat the limitations of the UK social security system, helping Care Experienced individuals and families in poverty to cope better with the impact of Covid-19. Long-term commitment is required from Scottish Government to protect those experiencing new or rising debt, especially for those at risk of losing housing because of the financial impact of Covid-19.
- The impact of unemployment has been significant for Care Experienced people who have contacted us, and this must be recognised at a national level. Long-term, targeted support is required to support Care Experienced people of all ages to find secure, stable employment opportunities which suit their interests and capabilities. We must also ensure that Care Experienced people can access secure jobs which pay the Living Wage, due to the very real threat of in-work poverty.
- We would like to see a longer-term plan laid out to address how future care leavers are prevented from digital exclusion. Moving forward, we want to see access to digital technology and the internet recognised as a fundamental part of wellbeing assessments and as an essential requirement for all Care Experienced people living in care and as care leavers. This must include support to learn how to use technology.
- Care Experienced parents and carers of Care Experienced children are often still struggling with extreme forms of hardship. The pandemic has taken a toll on families experiencing any kind of vulnerability, who have been living almost entirely without support networks and childcare. Targeted support should be provided for Care Experienced parents both financially and in recognition of them as a priority group for childcare and education services as lockdown eases.