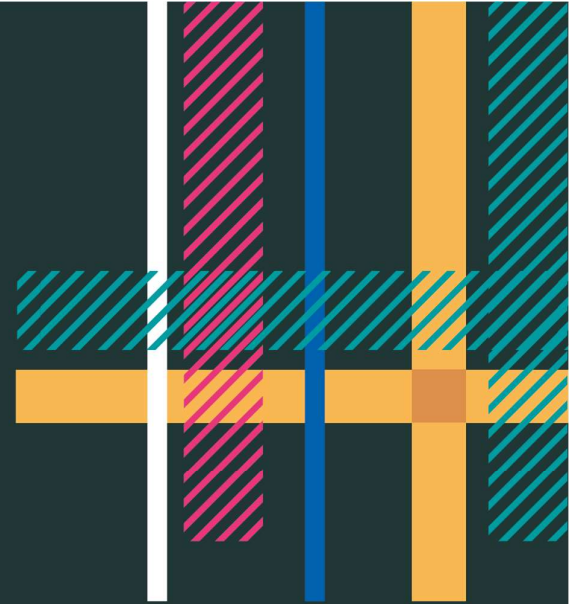




**WHO
CARES?**
SCOTLAND

EQUALITY | RESPECT | LOVE



Post-school Education and Skills Reform Legislation

Response to the Scottish
Government's public consultation

September 2024

www.whocarescotland.org

Introduction

Who Cares? Scotland is Scotland's only national independent membership organisation for Care Experienced people. Our mission is to secure a lifetime of equality, respect, and love for Care Experienced people in Scotland.

At the heart of Who Cares? Scotland's work are the rights of Care Experienced people, and the power of their voices to bring about positive change. We provide individual, relationship-based independent advocacy, and a range of participation and connection opportunities for Care Experienced people across Scotland.

Every year, our advocacy workers support around 1,600 people with around 6,000 individual advocacy issues across all 32 Local Authorities in Scotland. As we take a human rights-based approach to our work, around 10,000 individual rights are logged every year in supporting these issues. We bring Care Experienced people together to connect and shape the world around them. Around 700 unique individuals come together every year to take part in around 800 of our activities across Scotland.

We work alongside Corporate Parents and various communities to broaden understanding and challenge stigma faced by Care Experienced people. We work with policy makers, leaders, and elected representatives locally and nationally to shape legislation, policy and practice. We do this collaboratively to build on the aspirations of [The Promise](#) and to secure positive change.

Summary

This consultation response provides comment on the Scottish Government's proposals for changes to the remit of the three principal public bodies in the post-school education system. These public bodies are the Student Award Agency Scotland (SAAS), the Scottish Funding Council (SFC), and Skills Development Scotland (SDS). These changes aim to simplify responsibilities for apprenticeships and student support.

Who Cares? Scotland work with and support Care Experienced learners from early years to postgraduate study. We consulted our advocacy data to inform our decision about which proposal would be best for Care Experienced people. Our response is based on what we know about the full learner journey for Care Experienced people, and the changes they have told us would have made their education journey more equitable and supportive. Furthermore, we discuss the steps that SDS and SAAS have taken to uphold their Corporate Parenting duties in relation to Care Experienced learners, and that we would recommend the SFC's inclusion in the list of named Corporate Parents, which would see these same duties extended to them.

We have answered the following questions from the consultation which we believe are the most relevant to Care Experienced people and the evidence we have gathered from those we support.

Chapter 2: Simplifying responsibilities for apprenticeships and student support

We have combined our answer to the following four questions:

1. Which of the three proposals do you prefer?
2. What do you think are the main advantages of your preferred proposal?
3. What do you think could be the biggest challenges with your preferred proposal?
4. Are there any other factors you think we should consider in making a decision?

At Who Cares? Scotland, we are able to gather evidence on the lives of people with care experience, their outcomes, and whether they receive the support they need to thrive through the independent, relationship-based advocacy that we provide. We have analysed our advocacy data, and found that Care Experienced learners, in both further and higher education, face a number of issues related to their student support funding. The majority of these issues pertain from those in further education, who apply for their funding via their college. These challenges can be broken down into the following themes:

Evidence Complexities

As outlined in this consultation, chapter 2 business need 1: vision, having several different bodies involved in administering funds makes the system complicated and confuses learners. This is equally true for Care Experienced learners, who experience disparities when applying for their funding.

Despite the SFC releasing [robust guidance](#) each year for colleges that have been allocated further education student support funds, Care Experienced people report that not all institutions are following the guidance and have different rules when it comes to the Care Experienced bursary. The SFC recommend that Care Experienced students evidence their status via a confirmation letter from their local authority, or local Social Work department. However, this can be an extremely difficult, and sometimes impossible, process. Many Care Experienced people may not remember the exact details of their care arrangements, and can therefore feel unsure of who to contact. Furthermore, a number of Care Experienced people have been unable to obtain proof from their Local Authority, despite contacting them multiple times. Those with historical care experience face complications about record management – some files may have been lost, or may no longer be stored due to the length of time it has been since they were in care. Furthermore, with Local Authority boundary changes, Care Experienced people can be left feeling lost and confused as to who they are supposed to contact, and feel overwhelmed having to continue re-telling their story to each person they speak with.

The SFC recognise the barriers that Care Experienced people face when trying to obtain evidence of their care experience, and have created a form which can be used as an alternative. The majority of this form should be completed by the Care Experienced student, and a 'professional person' should complete the final section of the form, which asks them to confirm and verify the nature of the Care Experienced students care arrangements. This form can be completed by a wide array of professionals, including teachers, advocates, and doctors. The form creates a great alternative for Care Experienced people who are unable to obtain evidence from their Local Authority. However, many Care Experienced people are reporting that they are not aware that this form exists. When struggling to obtain evidence of their care arrangements, some colleges are not telling Care Experienced people that they can complete this form as an alternative. This has led to some Care Experienced people going months without their bursary. This process is unfair, and leads to disparities between the support available for Care Experienced people, dependent upon which college they apply to.

This process can become even more confusing for Care Experienced students on an articulation path. Many students will remain at college to study their HNC/HND. However, because this is now higher education, they will no longer apply to their college for funding, and must now apply to SAAS. This is a whole new system for students to contend with, and particularly difficult for Care Experienced people, as SAAS use a different definition of Care Experienced than SFC/colleges do.

We would welcome further clarification on what both proposals two and three would look like in practice for students i.e. in the case of proposal two, would students apply for their student support funding directly to SFC, or would they apply through their institution? Similarly, for proposal three, would all students apply to SAAS directly for their funding, or would those in further education continue to apply via their college?

Our recommendation would be that all students, regardless of their level of study, apply directly through one, independent body. If **all** students were applying to the same body for student support funding, some of the disparities that Care Experienced people face in relation to this funding could be mitigated. It would ensure that all Care Experienced people are receiving the same information, and the same level of support when required.

This one, independent body, should be a named Corporate Parent. We discuss naming SFC as a Corporate Parent later, under question 12. We would also expect this one, independent body to use a broad and inclusive definition of care experience, such as the one that Who Cares? Scotland uses:

“The term ‘Care Experienced’ refers to anyone who is currently in care or has been for any length of time regardless of their age. This care may have been provided in many different settings, such as:

- Kinship Care, including formal and informal
- Looked After at Home
- Residential Care
- Foster Care
- Secure Care
- Adoption”.

Bursary Reductions

All students need a strong scaffold of support around them to support them throughout their education journey. At Who Cares? Scotland, we often hear from Care Experienced learners that their bursary has been stopped due to their attendance. The majority of these learners are in further education, and receive their student support funding via their college. Care Experienced students report having different experiences on both applying and receiving their bursary, dependent upon which college they attend, as each institution approaches this differently. We have heard from Care Experienced learners about a number of challenges they have faced which has led to them being unable to attend college; challenges that can be exacerbated by the financial difficulty created by their bursary being cut. This is despite Care Experienced learners making their college aware about the circumstances that may have led to their absences from college.

The Independent Care Review revealed that Care Experienced adults can bear the lifelong cost of care, and are almost twice as likely to have poor health ([Follow the Money, 2020](#)). Furthermore, the [Tend our Light Report](#) by Who Cares? Scotland found that 100% of Care Experienced respondents experienced trouble sleeping, and more than 90% struggled with a lack of energy. This can also impact on social relationships, including avoiding social situations entirely – *“When my dad passed I stopped going to a lot of the groups that I was a part of, as I struggled with being around happy and upbeat people”*. **Every person they spoke to reported that their care experience had impacted upon their mental health in some way**. When Care Experienced people are experiencing difficulties with physical and mental health, they may struggle to attend college and fully engage in their studies.

It is important to note that Care Experienced parents may not have family and friends who are able to help them with childcare issues ([Who Cares? Scotland, 2023](#)). For example, if a child has fallen ill and unable to attend nursery/school, a Care Experienced parent may have no choice but to miss college to stay at home and look after their child. Care Experienced learners may also have to miss college due to

reasons related to their care, including attending mandatory meetings which are scheduled during class hours. This could be with their social worker, or attending a Children's Hearing.

Many Care Experienced people also struggle with a number of issues related to housing, which can impact their attendance at college. Research regularly highlights that many Care Experienced people leave care abruptly, before they are ready and without the necessary preparation and support ([CELCIS, 2022](#); [Scottish Throughcare and Aftercare Forum, 2024](#)). Coupled with the lack of options for young people to return to care, or rely on a family support network for a lifeline, Care Experienced people are at a greater risk of falling into repeat homelessness and experiencing severe and multiple disadvantages ([Lankelly Chase, 2019](#); [Crisis UK, 2021](#)). Once placed into accommodation, Care Experienced people can still face challenges related to housing, including feeling unsafe in their area or their home being inadequate for their circumstances ([Who Cares? Scotland, 2024](#)). Whilst experiencing this turbulence outside of education, it can be extremely difficult for Care Experienced people to maintain full attendance on their course.

As previously stated, the majority of Care Experienced students who have their student support funding cut are in further education, attending college. It is important to note that colleges are not expected to operate a 100% attendance requirement. Bursary awards should be made based on students 'engaging appropriately in their studies'. This is made clear in the [National Policy for FE Bursaries – Fund Management and Audit Information](#). There is detailed guidance on this in sections 41-55. Engagement is defined in the guidance as students attending classes (face to face, or online), and that attendance should be monitored. However, colleges should also accept that students may need to take leaves of absence for a range of reasons. Education institutions should be especially mindful of their Corporate Parenting duties when considering whether to withhold any bursary payment. In particular, whether the non-payment of the bursary could directly contravene the duty to 'be alert to matters which, or which might, adversely affect the wellbeing of Care Experienced people'. Guidance from SFC aligns with ambitions within The Promise - colleges should work to the principle that students who are having difficulties in meeting attendance criteria should be offered pastoral care and support before punitive and/or disciplinary measures (including reductions in student support) are put in place.

The [National Policy for FE Bursaries – Fund Management and Audit Information \(page 9\)](#) states:

"Where students have unauthorised absences or have exceeded the college policy on authorised absence, colleges should also have regard to whether the student has taken reasonable steps to engage in their studies, despite their absence from class, before making deductions to the student's bursary".

Whilst this guidance from SFC can help colleges to shape their fund management policies, it still allows for colleges to adopt different approaches. Having one, independent body who is responsible for delivering student support funding would create a unified approach to fund management and mitigate the different experiences that Care Experienced people have, depending on which college they attend.

12. What, if any, additional powers should SFC have in order to help ensure the post-school education and skills system operates effectively?

In 2014, the [Children and Young People \(Scotland\) Act](#) introduced Corporate Parenting into legislation. Under [s.58](#) of the Act, Corporate Parents have six substantive duties in respect of Care Experienced people, up to the age of 26. Many Corporate Parents across Scotland extend these duties to Care Experienced people beyond the age of 26, in recognition of the lifelong impact of care, and the general spirit of 'parenting'. It is the duty of every Corporate Parent, in so far as consistent with the proper exercise of its other functions -

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

Both SAAS and SDS are engaged and enthusiastic Corporate Parents, both of whom were shortlisted candidates for awards at Who Cares? Scotland's [Corporate Parenting Awards](#) in August 2024. Both SAAS and SDS go above and beyond to support the Care Experienced people that they support.

SAAS have a dedicated page on their website detailing what support is available for Care Experienced students. This includes links to a [video](#) and a [quick guide](#)

explaining the application process for the Care Experienced Student Bursary and the Summer Accommodation Grant. Furthermore, SAAS hold information sessions each year offering specialist support to Care Experienced people, ensuring they can answer any questions they may have.

SDS offer a wide range of support to Care Experienced people applying for Young Talent Programme positions, which helps people take the first steps in their career as a Modern Apprentice, Graduate Apprentice, Trainee Careers Adviser or Graduate Intern. SDS have ringfenced opportunities for Care Experienced applicants, including a pilot summer internship aimed at Care Experienced undergraduate students in 2021. Furthermore, their Career Information, Advice and Guidance (CIAG) services offer enhanced support for Care Experienced people. SDS also facilitated and contributed to a [report](#), led by the Scottish Apprenticeship Advisory Board, identifying the barriers that Care Experienced people face when trying to access Modern Apprenticeships and how they can be better supported into these positions.

Under s.56 of the Children and Young People (Scotland) Act, the Scottish Ministers may, by order, modify schedule 4 by:

- (a) adding a person or description of persons,
- (b) removing an entry listed in it, or
- (c) varying an entry listed in it.

With both proposal two and three, the SFC would have additional powers and would lead to them having further interactions with Care Experienced people. Regardless of which proposal is taken forward, we would strongly recommend the SFC being inducted into schedule 4 of the Children and Young People (Scotland) Act and being named as a Corporate Parent in Scotland. Scottish Ministers have successfully completed this previously – in 2018, ILF Scotland were inducted into schedule 4 via [The ILF Scotland \(Miscellaneous Listings\) Order 2018, Article 6](#). This meant that ILF Scotland became named Corporate Parents.

By naming SFC as Corporate Parents, they would have a legal obligation to uphold the duties outlined in s.58 of the Children and Young People (Scotland) Act. In particular, duty two; assess the needs of those children and young people for services and support; could allow SFC to support Care Experienced people and reduce some of the challenges they face in relation to their student support funding. Following their induction, we would expect that all Board members and senior management within SFC would undertake training on care experience, Corporate Parenting, and the associated duties and responsibilities.



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