

CEL CIS's response to the Scottish Parliament's Education (Scotland) Bill Call for Views

August 2024

CEL CIS, the Centre for Excellence for Children's Care and Protection, based at the University of Strathclyde, is a leading improvement and innovation centre. We improve children's lives by supporting people and organisations to drive long lasting change in the services they need, and the practices used by people responsible for their care. We welcome the opportunity to respond to the Scottish Parliament's Education, Children and Young People Committee's call for evidence for your scrutiny of the Education (Scotland) Bill. Our responses, based on research evidence, practice experience, and feedback from longstanding cross organisational networks, maintains a specific focus on the impact of national and local policy initiatives on children and young people in need of care and protection.

Context

Over 12,000 children are 'looked after' by Scottish local authorities, and over 8,500 young people are eligible for 'aftercare'¹. This includes young people who are care leavers, as well as children and young people who are living with foster carers, in residential care, with kinship carers, or living at home with one or both of their birth parents whilst the family is receiving support from social work; all of these children and young people are care experienced. There are a further 2,104 children 'at risk of significant harm' and thus on a Child Protection Register in Scotland. Furthermore, there are children who need care and protection who may not yet be identified or recorded within formal child protection systems².

All these children and young people are in need of care and protection, but their individual circumstances and needs will vary. The vast majority will have encountered difficulties in their lives, including experiencing trauma, abuse, and neglect. Young people moving into adulthood from care may experience additional barriers which can disrupt their journey beyond education. These can include intersectional factors related, but not limited, to moving home, having additional support needs, stigma and social inequality.

¹ Scottish Government (2024) [Children's social work statistics](#) 2022-2023. Edinburgh: Scottish Government

² Gilbert, R., Spatz-Widom, C., Browne, K., Fergusson, D., Webb, E. & Janson, S. (2009) 'Burden and consequences of child maltreatment in high-income countries.' *The Lancet* 373: 68-81.

National education outcome indicators in Scotland show that the gap between the attainment and achievement of 'looked after' children and young people, and that of their non-care experienced peers, remains unacceptably large³. The COVID-19 pandemic, and the associated public health protection response, disproportionately impacted children, young people and families who need support and continues to have an impact.

Key Messages

- All children and young people have a right to a high-quality education. All children need support during their educational journey and care experienced children and young people may require additional support during their time in school.
- The opportunity for reform is an historical moment to redesign an education system that reflects fast paced technological, pedagogical advances and puts equity at its core. Meeting legal duties and responsibilities of corporate parenting are crucial within this.
- Children's and young people's experiences and views must be listened to and meaningfully considered when decisions are made about the awarding and accrediting qualifications and methods of assessment. Lived experienced will add significant depth to understanding what matters to learners.
- Scotland should re-think what is scrutinised via inspection, based upon a nuanced understanding of the dynamic needs of care experienced learners.
- Structures which actively enable the education workforce to provide the support that children, young people and families need, and to work together in partnership seamlessly across service and system boundaries, are crucial in ensuring children, young people and families get the help they need when they need it.

Q1. What are your views on the proposals for Qualifications Scotland?

The proposal to make Qualifications Scotland (QS) more inclusive and accountable than the Scottish Qualifications Authority (SQA) through the introduction of panels of interest and charters is a welcome development. However, it is not clear from the information within the proposed Bill, if or how this will lead to the reform recommended by Professors Muir³ and Hayward⁴ in their respective reviews of the curriculum and qualifications and assessments. The Bill's Explanatory Notes set out that the proposed changes from the SQA to

³ Scottish Government (2022) [Putting Learners at the Centre: Towards a Future Vision for Scottish Education](#). Edinburgh: Scottish Government

⁴ Scottish Government (2023) [It's Our Future, Independent Review of Qualifications and Assessment: report](#). Edinburgh: Scottish Government

QS are centred around governance of the main functions (accreditation and awarding of qualifications) rather than changes to these functions, or how these are exercised. We understand that while new governance structures are proposed within QS, which do not currently exist in SQA, the main activities performed by QS will be similar in scope and function to SQA.

In [our response](#) to the Scottish Government's 'Education Scotland and the Scottish Qualifications Authority: Consultation' in November 2021 we said that:

"The opportunity for reform is an historical moment to redesign a school system that reflects fast paced technological, pedagogical advances and puts equity at its core."

Whilst the proposed Bill details a number of structural changes to the governance and functioning of QS, it contains little detail on how these new structures will support and enable significant positive change to either curriculum design or the qualifications and assessment system: we would offer caution around focusing change efforts purely on structure. The changes proposed, which focus predominantly on structural change, contrast starkly to the radical reform recommended by both Professor Muir and Professor Hayward in their respective reviews of the education system. CELCIS's recent Children's Services Reform Research⁵ (CSRR) found that whilst structures do matter in a variety of ways, what matters most is not the structure itself, but how the structure enables the workforce to provide the help and support that children, young people and families need, when they need this and the relationships between practitioners, services and, crucially, those providing support and those requiring support.

The Bill sets out proposals for strengthened quality and integrity focused functions around award accreditation. These specifically highlight that these powers will better support a fair awarding system for all, particularly for learners with additional support for learning needs.

We welcome any provision which has the potential to promote equity of access and consistency for learners. The [Education \(Additional Support for Learning\) \(Scotland\) Act 2009](#) promotes the interests of 'looked after' children by stating that they are presumed to have additional support needs (ASN) unless assessed as otherwise. However, as data released by local authorities via a [Freedom of Information request in 2015 shows](#), such duties towards 'looked after' children

⁵ Porter, R., Young, E., Scott, J., McIver, L., Mackinnon, K., Fowler, N., & Ottaway, H. (2023). [Children's Services Reform Research Study: Rapid Evidence Review](#).

are being inconsistently implemented across Scotland, with some local authorities only assessing a small proportion of eligible children. This raises concern around the number of children and young people with care experience who local authorities assess regarding their needs, or otherwise.

There is an opportunity within the proposed Bill to support the recommendations from the [Morgan Review](#), to ensure that every learner, including children with care experience, receive the support that they are entitled to, to benefit fully from their educational journey. Both the Morgan Review, and the [subsequent inquiry](#) by the Scottish Parliament's Education, Children and Young People Committee found that, overall, the legislation and policy in this area is not being implemented as intended and learners with additional support needs are often not being given the support that they need or are entitled to. If learners are not receiving the support they need, when they need it, this will undoubtedly have an impact on their ability to learn and to then access awards and qualifications to succeed to their full potential.

Qualifications Scotland would be required to develop a Corporate Parenting plan and we would urge those creating the new body to prioritise this. This plan should be aligned with Promise Plan 24-30, to ensure their statutory duties are upheld and care experienced learners' rights are promoted, and the forthcoming new Promise Implementation plan from the Scottish Government.

While QS, like the SQA, will have Corporate Parenting responsibilities to care experienced learners, this new body will also have responsibility to develop a number of plans and charters which will set out the organisation's responsibilities towards all learners. SQA has undertaken a significant amount of work to date around Corporate Parenting. The [current SQA Corporate Parenting Plan](#) which covers the period 2023-2026 sets out a number of commitments to uphold the rights and promote the wellbeing of care experienced learners. Furthermore, the recently published [Promise Plan 24-30](#) from The Promise Scotland reinforces the need for Corporate Parents to work together to achieve equity of outcomes for care experienced learners.

We welcome the mechanisms proposed in the Bill around the inclusion of learners, parents and carers, and the education workforce through communities of interest and the development of charters. Core to the principles and values of the GIRFEC model is that a child or young person, and their family are at the centre of decision-making and support. GIRFEC is grounded in children's rights under the United Nations Convention on the Rights of the Child (UNCRC), and this approach aligns to Articles 12 and 5 of the UNCRC, outlining the rights of children to express their views on matters that concern them, and have these views taken into account, as well as the responsibilities and rights of parents to

provide guidance to their child to ensure they enjoy their rights according to their evolving capacities. The proposed communities of interest and associated charters provide significant opportunity to embed both GIRFEC and UNCRC principles and practices, which is now enshrined in law, within the new body.

The introduction of Communities of Interest, as part of the new QS governance structures, should take account of how to meaningfully include learners with care experience, and the people who live with, care for and teach them. We are in favour of the development of these communities due to the benefits that they can bring to service design and delivery and their potential to promote children's rights.

It is important to acknowledge that meaningful participation requires ongoing attention alongside time, resource and skilled practice. We know through research that participatory design in education, which involves children and young people in the design of educational services and environments leads to more engaging and effective learning experiences. Studies have highlighted how learners' feedback can improve curriculum development and technology integration⁶.

CELCIS's recent Children's Services Reform Research study also found that having a focus on realising the rights and improving the participation of children, young people, and their families, in decisions which affect their lives is important in ensuring that children and young people get the help they need, when they need it.

Similarly, we are supportive of the proposed introduction of a community of interest which involves teachers, education practitioners and leaders at all levels of the education system. This community should also include practitioners from other parts of children's services. Education does not work in isolation from other services, and it has been acknowledged by [The Promise](#) that education is part of the wider scaffolding of the care system. Likewise, other organisations within children's services provide wider scaffolding for the education system. Our Children's Services Reform Research also found that partnerships that work seamlessly across service and system boundaries are in structures which actively enable the workforce to provide the help and support that children, young people and families need. There is opportunity within these proposed changes to education to model multi-disciplinary working across system and structural boundaries which creates meaningful practice change, informed by those

⁶ Peer Power Youth & Criminal Justice Hub. (2021). [*Amplifying youth voices: Participatory approaches in the youth justice system.*](#)

practitioners and leaders who are closest to the children, young people and families that we are supporting.

For these proposed communities of interest to be meaningful, impactful and manageable within current workloads, thought must be given to protecting time for staff to be involved. We know through our engagement with our [Education Forum](#) and the [Virtual School Head Teacher \(VSHT\) Network](#) that staff continue to find their working conditions and workloads in the current context extremely challenging. As an example, the information on the policies, laws and guidance that education staff are currently involved in implementing is set out on the [Enquire webpage](#) and gives an insight into the scale of this current task. The workforce, more than ever, requires help and support. Practitioners and leaders are unlikely to be able to be fully present or engaged without the time and resources required to allow them to do this alongside their current workload.

Finally, as this Bill is predominantly focused on structural change, we would argue that it will be essential for attention to be paid to the practice change required and that it seeks to create. Without this, it will not be possible to ensure that the needs of all learners can be met through the creation of a new qualifications body. Learners themselves and the people who support them must be enabled and empowered to shape a way forward that delivers on this.

Q2. What are your views for the proposals for a new HM Chief Inspector of Education in Scotland?

The proposals within the Bill to create a new HM Chief Inspector of Education could have significant opportunities for all learners, but particularly for learners with care experience.

There are opportunities for the new HM Chief Inspector of Education to work alongside Scotland's Virtual School Head Teachers (VSHTs) to ensure that care experienced learners receive the support they need when they need it. A VSHT is a senior member of education staff in a local authority who works at a strategic level, but not in a physical school building, to offer an additional layer of support to care experienced children and young people. VSHTs also provide key links between multi-agency teams and advocate for the needs and rights of care experienced children and young people, and are an example of how education services, in collaboration with others, are working to keep The Promise. A 'Virtual School' is an organisational model which is often used to describe the way that support is structured and provided. The VS and VSHT offer an additional layer of support for the education of care experienced learners through one person or a team.

CELCIS has been the home of the Scottish VSHT Network (the Network) since its inception in 2019. Scotland currently has 20 VSHTs, or equivalents, who support around 72% of Scotland's 'looked after' children and young people.

Ensuring that the Chief Inspector, and their inspection team, has a nuanced understanding of all groups of learners, their needs, and the responsibilities of those who educate and support them, will be crucial in ensuring that care experienced learners' rights and needs are upheld and identified as part of the inspection process.

In England, an equivalent function to that of HM Chief Inspector, is performed by Ofsted. Recent research⁷ found that in England, where the Virtual School role is statutory, Virtual School Heads (VSHs) described different levels of engagement with Ofsted.

Some VSHs only had short meetings or telephone calls during Ofsted inspections, while in other areas there was extended and meaningful engagements around support for care experienced learners. As part of this research, some VSHs and other interviewees felt that inspectors were not well informed about children and young people in care and that consequently, the inspectors' focus could be misaligned with the needs and experiences of these young learners. There was concern from VSHs and other interviewees that school inspections did not do enough to adequately explore the experiences of children and young people in care. The research asserted that effective virtual schools should be engaged both in inspection and with Ofsted more widely, working with inspectors who are well informed about the educational needs of children and young people in care.

We welcome and see the inclusion of scrutiny as a crucial part of the improvement cycle, drawing the focus to areas that require attention. An important consideration for those working in education is having a nuanced understanding of the needs of care experienced learners, and the complexity of the bespoke support required to support learners which must constantly adapt to respond to the support which the children and young people may need. This is a specialist area that should be scrutinised by colleagues who have a sophisticated understanding of the learners, their lives, and the levels of support around them.

⁷ Harrison, N., Sebba, J., Wigley, M., Pryor, R., & Blyth, F. (2023). [Improving the effectiveness of virtual schools.](#)

Whilst the number of children and young people with care experience will vary across schools and local authorities, all educational establishments should have procedures in place for supporting this group of learners. Likewise, anyone who is involved in inspection processes should have a developed knowledge and understanding of the strengths, needs and characteristics of children and young people with care experience. Additionally, we would welcome the introduction of 'care informed' inspectors who are trained and familiar with the diversity of care experienced learners, the complexity of the care system, the 'Virtual School' model, and trauma-informed approaches. This would both build expertise and capacity within the system, but also importantly ensure that the nuanced needs of care experienced learners are considered by someone with specialist knowledge during any inspection process.

Strong leadership which creates an inclusive culture based on an appropriate understanding of the needs of care experience learners would ensure equity for all learners. Often within schools, and local authorities, there can exist an inherent tension between equity and equality and care experienced learners' needs can become 'a priority amongst priorities. Senior leaders within schools and local authorities must have access to high quality professional learning, coaching and proportionate scrutiny which will support them to create the right conditions for care experienced learners to thrive.

An inspection framework that can mirror the changing needs of children and young people and focus on live issues that would benefit from additional scrutiny, and historically may have been hidden from view, should be developed, alongside appropriate quality indicators. This would allow focus on ensuring that all schools strive to meet the needs of all learners. Like with all children, care experienced learners' trajectories through education vary from individual to individual. Transitions between schools and from primary to second learning can all require additional targeted support. There will always be a need for help and support for children and young people with different experiences, including learners who are 'looked after' at home, learners who are unaccompanied refugees or migrants, and the significant number of children in care living away from their home local authority.

Thank you for providing us with this opportunity to respond. We hope the feedback is helpful; we would be happy to discuss any aspect in further detail.

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