

Minister for Children, Young People and Keeping the Promise



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11 August 2023

Dear Convener,

### **Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill**

Many thanks for your correspondence on the above Member's Bill dated 19 May 2023. The Scottish Government is grateful for the Committee's thorough consideration of the Bill's provisions, and this opportunity to provide further information on the important questions that you have raised. I met with the Member-in-charge, Pam Duncan-Glancy MSP, on 29 June 2023 to discuss the Committee's correspondence. I am grateful for her work in raising awareness of transitions for disabled young people through this Bill and I look forward to continuing to work with her on this important area.

The Scottish Government agrees that the current situation in respect of disabled young people's experiences of their transitions to adult life needs to improve, and that doing nothing is not an option. We are already taking forward a number of activities which will contribute to improving these transitions, and we are committed to doing more.

That is why the Scottish Government is pressing forward with developing Scotland's first National Transitions to Adulthood Strategy so that that all disabled young people can experience a supported and positive transition to adult life. We have recently reaffirmed this 2021 Programme for Government commitment by including it as a priority commitment in the First Minister's [Equality, opportunity, community: New leadership - A fresh start](#) which was published in April 2023.

It is our intention to publish a Statement of Intent on the strategy in September of this year, setting out the proposed scope, vision, and priorities which have been co-

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developed with partners in our [strategic working group](#). This will be a crucial step in ensuring that disabled young people are at the heart of any change and ensuring that there is a joined-up approach to supporting our disabled young people as they make the transition to adult life.

In addition, we are taking forward reform of important policies and legislation such as refreshed planning guidance under Getting it Right for Every Child, transitions focused pathfinders under Getting it Right for Everyone, and the review of the Action Plan on Additional Support for Learning, amongst others. The evidence you have gathered to date through your consideration of the Bill provides helpful insights that we will ensure are considered as part of this work.

Whilst fully supporting the intentions of the Bill to improve transitions for disabled young people, the Scottish Government shares many of the questions that the Committee has raised in its correspondence in respect of how the Bill's provisions would be implemented; the duplication and overlap with existing policy and legislation; the proposed costs associated with the Bill; and whether the Bill could achieve its intended aims and impact. We have provided more detail in response to the specific questions raised by the Committee to the Scottish Government in the annex attached to this letter. I hope you find these helpful.

Many thanks again for your continued consideration of this important issue.

Yours sincerely

**Natalie Don**



**Scottish Government Response**

**National transitions strategy- conclusions**

**Page 7: The Committee asks the Scottish Government to set out how it will ensure that, in the absence of them being placed on a statutory footing, the application of any existing or future strategies relating to disabled children and young people will be monitored to ensure they improve transitions to adulthood.**

The Scottish Government has co-developed many strategies which are being successfully implemented without legislation, and this collaborative approach is welcomed by our partners such as COSLA. Any strategy prepared by the Scottish Government is in the public domain, and even if not laid before Parliament, Parliament is able to make inquiries about it, including its effectiveness.

There are many examples of non-statutory strategies that are subject to monitoring, review and amendment. For example, the National Carers Strategy published on 21 December 2022 includes a section on monitoring that sets out how the Carers Rights and Support Steering Group will be 'responsible for ensuring that the actions in the Strategy are implemented, monitoring their impact and ensuring that the Strategy remains relevant'. Additionally, 'A Fairer Scotland for Disabled People Employment Action Plan' was published by the Scottish Government in December 2018. In this we committed to annual progress updates. Progress Reports were subsequently published on 30 March 2020 and 8 March 2021, and a refreshed Fair Work Action Plan was published in December 2022.

In relation to our Programme for Government and the First Minister's Policy Prospectus commitment to deliver Scotland's first National Transitions to Adulthood Strategy, it is our intention that this strategy will be subject to robust and regular monitoring and review, to ensure it delivers on its intended aims and remains relevant. A delivery plan and monitoring, evaluation and reporting framework, with success measures, will be developed alongside the strategy, in collaboration with the National Transitions to Adulthood Strategy Strategic Working Group. We are already publishing the minutes from the meetings of the Strategic Working Group on the Scottish Government website so that the progress on our commitment to introduce this strategy, and its subsequent development, can be publicly monitored. Minutes of the meetings can be found [here](#).

**Page 7: The Committee asks the Scottish Government to provide an update on the timeline for the development of its National Transitions Strategy following the meeting with key stakeholders on 14 March 2023.**

To date we have been laying the foundations to deliver on Scotland's first National Transitions to Adulthood Strategy through research and engagement, and by supporting the Association for Real Change (ARC) Scotland with the Principles into Practice Trials, which commenced in January 2020 and concluded in March 2023.

This year will see a continuation of the development and engagement on the strategy. As the Committee have heard, a Strategic Working Group was established

in March 2023 and has been meeting monthly. This group comprises representatives of local authorities, health, education, social work, the third sector and parents and carers. Three groups of disabled young people have also been contributing to this work, and we have taken care within our timescales to adopt flexible approaches for engaging groups of young people, to support their meaningful engagement.

We are currently co-developing a Statement of Intent which we hope to publish in September 2023. This will set out the proposed scope, vision, priorities and areas of focus for the strategy. This will then be tested through wider engagement which is expected to take place from October 2023 to December 2023. This will be a crucial step in ensuring that disabled young people are at the heart of any change, and in gathering wider views on whether the draft vision and priorities are the right ones, ultimately for inclusion in the strategy. Following this, the strategy will be drafted, and a formal public consultation expected to launch in Spring 2024. We plan to publish a summary of all the responses to show what people have said, before publishing the final National Transitions to Adulthood Strategy.

### **Minister with Special Responsibility for transitions- conclusions**

#### **Page 10: The Committee asks the Scottish Government to set out how it would ensure that there is visibility and accountability in government for improving transitions to adulthood for disabled children and young people in the absence of a Minister with Special Responsibility for transitions.**

As highlighted in our [memorandum](#) submitted in response to the Committee's Call for Views on 26 October 2022, the power to appoint members of the Scottish Government and junior ministers is vested in the First Minister alone in terms of sections 47(1) and 49(1) of the Scotland Act 1998.

Paragraph 4(1) of schedule 4 of the Scotland Act 1998 states that an "Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, this Act", and sections 47(1) and 49(1) are not included in the exempt provisions listed in paragraph 4(2) of that schedule. In addition, section 6 of the Bill appears to modify the operation of section 52(3) of the 1998 Act, according to which "statutory functions of the Scottish Ministers shall be exercisable by any member of the Scottish Government". The provision in the Bill for the creation of a Minister with Special Responsibility for transitions is therefore an issue of legislative competence which would require addressing through amendment of the Bill, should the general principles of the Bill be agreed by the Parliament at Stage 1.

There are a number of ways in which Ministers are already held accountable, including through Parliamentary Questions, scrutiny by Parliamentary Committees, and ultimately, the electorate. The Committee will also be aware that the Scottish Government operates on the basis of collective responsibility. This means that all decisions reached by the Scottish Ministers, individually or collectively, are binding on all members of the Government. The principle of collective responsibility, save where it is explicitly set aside, applies to all Ministers – a point that is extremely important given the complex and cross-portfolio nature of transitions.

The Scottish Government has already taken forward a number of actions to ensure there is visibility and accountability in government for improving transitions to adulthood for disabled children and young people. This includes giving non-statutory

effect to two of the main provisions in the Member's Bill: through our Programme for Government commitment to introduce Scotland's first National Transitions to Adulthood Strategy, and reaffirming this as a priority commitment within the Cabinet Secretary for Education and Skills portfolio in the [First Minister's Prospectus, Equality, opportunity, community: New leadership - A fresh start](#), and through providing joint Ministerial leadership and responsibility for transitions.

This joint Ministerial leadership and responsibility was recently seen by the attendance at the Committee's Stage 1 evidence session on the Member's Bill on 22 February 2023 of both the former Ministers for Children and Young People and for Equalities and Older People. The Scottish Government is committed to continuing this joint Ministerial leadership, with the Minister for Children, Young People and Keeping the Promise and the Minister for Equalities, Migration and Refugees continuing to work together in this area. For example, whilst the Minister for Children, Young People and Keeping the Promise has specific responsibility for transitions listed publicly on the Scottish Government website [here](#), both Ministers provided a joint foreword for the recently updated version of the Association for Real Change (ARC) Scotland's [Principles into Practice publication](#), with the Minister for Equalities, Migration and Refugees also providing a recorded speech to support its national launch on 16 June 2023.

Given the complex and cross-cutting portfolio nature of transitions, an internal cross-policy working group of officials has also been established to facilitate greater communication, maximise synergies, and identify opportunities to improve co-ordination of the breadth of work across the number of Ministerial portfolios within Scottish Government which contributes to improving outcomes for disabled young people as they transition to young adult life.

**Page 10: The Committee believes that regardless of which National Strategy is progressed, that the experiences of those who have been through transitions should be at the heart of its design, to ensure that any negative outcomes are avoided, and that person-centred best practice is built upon. The Committee encourages the Member in Charge and the Scottish Government to enter into dialogue at an early stage to ensure that this is the case.**

We wholeheartedly agree that those with lived experience of transitions must be at the heart of any change and they will be integral to the design and development of our strategy in order for it to be as effective as possible. Across Scottish Government we are committed to ensuring the voices of lived experience are heard in policy making.

As previously stated, we have already been engaging with three groups of disabled young people in the development of the strategy, and we will ensure that there is sufficient time to allow for the meaningful engagement and participation of more disabled young people throughout its development.

We are very aware that disabled young people, their families and other relevant stakeholders have already shared some of their experiences to date, and there is a large amount of evidence already in existence. This includes the information gathered during the call for views on the Member's Bill both in November 2020 and September 2022. To collate the evidence to date and to develop a more comprehensive picture of what a good transitional experience from school to

adulthood would look like for all disabled children and young people, last year we awarded the Diffley Partnership a short-term social research contract to help inform future engagement to support the development of a National Transitions Strategy. As part of this work the organisation undertook and developed the following:

- A [literature review](#) of existing evidence on transitions to adult life, with a particular focus on what disabled children and young people have said to date.
- Gaps in evidence analysis.
- Topic guides which could be used to assist further engagement with disabled children, young people, parents/carers and practitioners.

Publication of the literature review in February 2023 provided a comprehensive evidence base to underpin the strategy, drawing upon well-documented evidence directly from disabled young people, and those that support them, on both common challenges and person-centred effective practice in transitions.

As we have mentioned, we are working with partners in the [Strategic Working Group](#), and have also been engaging with three groups of disabled young people: The Divergent Influencers working with ARC Scotland; Independent Living Fund's Young Ambassadors for Inclusion; and The Inclusion Ambassadors working with Children in Scotland, to strengthen these foundations with their lived experience in order to co-develop an evidence-based Statement of Intent for the strategy.

In addition to this, the Scottish Government provides secretariat support to the independently chaired Disabled Children and Young People Advisory Group (DCYPAG), which advises the Scottish Government on issues relevant to the development and implementation of policies which impact upon disabled children, young people and their families. Its membership aims to be representative of the children's disability sector, as well as organisations representing young disabled people and families of disabled children and is drawn from a range of public and third sector organisations and individuals.

In 2022, we awarded funding to a sub-group of DCYPAG to:

- identify and develop tools and methodology to support the meaningful engagement and participation of disabled children and young people whose needs are complex and whose voices are rarely heard, and their families, and share learning on these approaches; and
- capture what matters to this cohort of disabled children and young people and their families within the context of effective planning and effective support, to contribute to the design and development of the National Care Service and the National Transitions to Adulthood Strategy.

We are continuing to work with the delivery partners of this project to collate the final outputs, and identify the messages, including from young people with complex support needs, which will contribute to the development of the strategy.

As the Committee heard, we are delighted that we have been able to support ARC Scotland to trial Principles into Practice in 10 local authority areas to improve the lived experiences of young people who need additional support as they make the transition to young adult life. Through funding from the Scottish Government, ARC have also developed 'Compass'- a web-based application which has been developed with young people and parents and carers. There are three versions of



Compass - for young people, parent carers and professionals, and the tool provides tailored information and advice to help them navigate transitions. Compass can also gather feedback from its users which can be provided to help shape transitions services and policy in local authority areas. ARC have now published an [Impact Report](#) detailing the key challenges and successes of the trials, and we will also use this learning as we continue to focus on improving transitions and develop Scotland's first National Transitions to Adulthood Strategy.

### **Current experiences of transitions and opportunities for disabled young people- conclusions**

**Page 14: The Committee would like to thank the young people, parents, carers and support workers who spoke to Members about their experiences. The Committee believes that there are some excellent examples of good practice, such as in Buchanan High School. The Committee recognises the importance of organisational culture and leadership in ensuring positive transitions for disabled children and young people and recognises that individuals supporting young people can also make a significant difference between a young person having a positive or a negative experience. The Committee asks the Scottish Government what it is doing to replicate and scale up such examples of good practice.**

As previously mentioned, the Scottish Government has supported ARC Scotland to trial Principles into Practice in 10 Local Authorities over 2 years. Principles into Practice is a practical framework designed to improve the experiences of young people with additional support needs aged 14-25, and their parents and carers, as they make the transition to young adult life. The trial programme focused on 'learning by doing', pioneering new approaches to multi-agency working, staff development, engagement with young people, parents and carers, and data gathering and evaluation. Throughout the stages of the trial, programme improvement methodology from 'Changing the World: The 3-Step Improvement Framework for Scotland Public Services' (Scottish Government 2013), was used to identify, design, test, measure, implement and spread new and better ways of working to make services more effective and responsive to the needs of children, young people and their families, and to transform the way young people are supported as they make the transition to young adult life.

We are providing funding for a further two years to enable ARC Scotland to continue to embed and spread Principles into Practice in the planning and delivery of support for young people who require additional support to make the transition to adulthood, and to implement it in more local authority areas across Scotland. This includes the continued delivery of learning exchange events to expand the current community of practice of local authority practitioners involved in transitions.

The funding will also enable ARC to continue to run the Scottish Transitions Forum – a national network of over 950 members, including professionals from all relevant sectors, young people and their carers, working together towards the following objectives:

- Supporting joined up working across all services;
- Continually improving knowledge, motivation and practice; and
- Informing and empowering young people and their carers.

In developing the National Transitions to Adulthood Strategy, we are working with partners in the Strategic Working Group and drawing upon the lived experience of those involved in transitions to develop a national strategy with solutions drawn from existing effective practice. This includes consideration of the [key learning](#) arising from ARC Scotland's Principles into Practice trial, with a particular focus on actions which led to local improvements in disabled young people's experiences of transitions to adulthood, and the characteristics of positive transitions highlighted by the [literature review](#). These will contribute to the evidence base of existing good practice from which we will develop a realistic set of outcomes and actions to ensure all disabled young people in Scotland can experience a positive and supported transition to adult life.

As the Committee will be aware, Getting it Right for Every Child (GIRFEC) continues to provide Scotland with a consistent framework and shared language for promoting, supporting, and safeguarding the wellbeing of children and young people. It is locally embedded and positively embraced by organisations, services and practitioners across Children's Services Planning Partnerships, with a focus on changing culture, systems and practice for the benefit of babies, infants, children, young people and their families.

Refreshed GIRFEC policy and practice materials were published in September 2022, complemented by virtual engagement sessions in February and March 2023. Officials have also worked with The Alliance and Children in Scotland to support the development of education materials for those working in health, social care, and the third sector respectively. Work is also ongoing to re-establish a GIRFEC learning network. We have engaged with local authority and health practitioners to help us design a highly effective network. We plan to meet with our national partners to consider a joint approach to supporting improvement in GIRFEC practice across the different workforces in children's services.

We are also currently co-designing Getting it Right for Everyone (GIRFE), a proposed multi-agency approach to support and services from young adulthood through to end of life care. This approach will help define the adult's journey through individualised support and services and will respect the role that everyone involved has in providing planning and support. The place-based pathfinders helping to co-design GIRFE are aligned to five thematic areas, including families with multiple and/or complex needs, and young people in transition from Getting it right for every child (GIRFEC) to GIRFE.

GIRFE builds on existing adult best practice and GIRFEC, and will provide a national practice model to embed inter-agency working. GIRFE is being tested and developed in local areas with practitioners and the people the initiative is designed to benefit. This will help us understand how it will be interpreted and implemented in different contexts, before implementing and scaling up GIRFE across Scotland.

**Page 14: The Committee believes that data relating to the transition from children's to adult services and access to further and higher education, and employment should be collected, analysed and reported upon regularly to ensure that sufficient progress is being made. The Committee asks the Scottish Government to respond to this recommendation.**



The Scottish Government is a strong advocate of the use of data to improve the quality and inclusivity of Scotland's services and agrees with the Committee that robust and meaningful data collection is required to ensure that sufficient progress is being made, and that services deliver for everyone.

[School leaver attainment and destinations](#) and [Labour market statistics for Scotland by disability](#) are already published annually on the Scottish Government website.

Statistics for Attainment and Initial Leaver Destinations show that amongst school leavers from publicly funded mainstream schools with an Additional Support Need, 93.4% of 2021/22 school leavers were in a positive destination 3 months after the end of the school year (up from 92.8% in 2020/21). Amongst those school leavers from publicly funded mainstream schools without an Additional Support Need, 97.3% of 2021/22 school leavers were in a positive destination 3 months after the end of the school year (up from 97.0% in 2020/21).

The latest widening access data was published by the Scottish Funding Council on 25 July 2023 and can be found [here](#). This report finds that in 2021-22, 17.4% of Scottish-domiciled entrants to full-time first-degree courses at university had a declared disability, which is an increase on the 2020-21 figure of 16.3% and has in part been driven by an increase in those declaring multiple disabilities, and those declaring specific learning difficulties such as ADHD, dyslexia or dyspraxia. In the college sector in 2021-22, 21.2% of enrolments to full-time Higher Education level courses were by students with a declared disability, and 29.9% of enrolments to full-time Further Education level courses were from students declaring a disability.

Labour market statistics for Scotland by disability (January to December 2022) show that in 2022, an estimated 436,400 disabled people aged 16 to 64 were in employment. The employment rate for disabled people aged 16 to 64 was estimated at 50.7 per cent, increasing from 49.6 per cent in 2021. The employment rate for disabled people is above the rate in 2019 (49.0 per cent) and has passed 50.0 per cent for the first time. However, this was significantly lower than the rate for non-disabled people (82.5 per cent).

We have made progress towards our goal of reducing the disability employment gap by 2038 to 18.7 percentage points since setting the target in 2016. Last year, the Disability Employment Gap was 31.2 percentage points, the lowest it has been since our baseline year in 2016 when it was 37.4 percentage points. We know however more needs to be done to tackle the structural barriers faced by disabled people in the labour market. In December 2022 we published a refreshed [Fair Work Action Plan](#) which sets out our actions to promote fair and inclusive workplaces across Scotland, including tackling the disability employment gap.

We are aware of the value of day and short break support for some disabled young people and their families who are making the transition from children's to adult services. In 2022, the Scottish Government carried out two surveys seeking insight into the current operating status of adult building-based day and respite services throughout all local authority areas. The findings from the first survey, carried out in late spring 2022, can be accessed [here](#). The second survey, carried out in December 2022, showed a marked increase in services operating to pre-pandemic levels and increased capacity. The results of the second survey can be found [here](#).

The December Survey indicates that there are over 150 building-based day services throughout the 28 responding authorities, which support those with learning difficulties, physical and sensory disability, mental health or long-term health conditions. Most of these services are currently open or partially open. The survey also indicated there are 70 building-based respite services which are open or partially open and offer support to those with a range of needs such as learning difficulties, complex support, physical and sensory disability, or mental health.

While both surveys carried out in 2022 focused on adult building-based services, qualitative data or narrative provided to accompany responses also indicates there are a number of day and respite opportunities for all adults through community-based outreach programmes which have been retained following the Covid-19 pandemic to offer a more flexible approach to support. We are continuing to work with local authorities and Health and Social Care Partnerships to encourage services to reopen.

We also recognise there are some areas where further social care data would be valuable, and work is progressing to address these challenges. The National Care Service (NCS) will have equality, dignity, and human rights at its heart to empower people to make the choices that are right for them. Robust data and digital infrastructure will be a key enabler of the NCS by: enabling ethical commissioning, underpinning regulation and improvement; supporting workforce planning; facilitating research; and, ultimately supporting people to live fulfilling, independent lives.

We are reviewing data collections to ensure they are providing value, identifying where there is duplication and looking at opportunities to streamline collections or share best practice to improve efficiencies and reduce the burden on data providers. As part of this we are also identifying what data is not available and developing plans on how to source this.

More broadly, the Scottish Government and our partners already publish a wide range of robust equality evidence on the [Equality Evidence Finder](#) platform. Scotland's new [Equality Evidence Strategy](#), covering the period March 2023 to December 2025, sets out a range of actions to strengthen Scotland's equality evidence base that will be carried out by the end of 2025, along with a refreshed vision and direction that have been developed based on stakeholder views and feedback. The strategy aims to enable policymakers to develop sound and inclusive evidence-based policies to improve service delivery and outcomes for Scotland's people. The publication of this strategy marks the completion of the first phase of the [Equality Data Improvement Programme \(EDIP\)](#), which laid the groundwork in strengthening Scotland's equality evidence base following the continued recovery from the COVID-19 pandemic.

Responsibility for successfully implementing the strategy has to be shared across a range of organisations and interests, and across all Scottish Government ministerial portfolios. The Scottish Government will support the collection and use of information by the public sector, academic institutions, the third sector and from within communities themselves. Certain listed authorities have responsibilities under the [Public Sector Equality Duty \(PSED\)](#) and it is incumbent on all organisations to consider their role in funding, designing or undertaking data collection, research and analysis to fill equality evidence gaps.

## **Current services for disabled children and young people- conclusions**

**Page 16: The Committee is deeply concerned by what it has heard about current services for disabled children and young people. The Committee also notes the disconnect between children's and adult services. There is an urgent need to improve access to specialist services for disabled children and young people and to ensure consistency across Scotland. The Committee asks the Scottish Government what urgent steps it will take to address these issues.**

### **Current services for disabled children and young people and reducing the disconnect between children's and adult services.**

The Children and Young People (Scotland) Act 2014 (Part 3) places duties on each local authority and health board to work collaboratively with other service providers to plan, develop, deliver and report on a Children's Services Plan. This must set out how and what provision of services and supports will be available locally and describe how these will be delivered in such a way to result in improved outcomes for children, young people and families. The Children's Services Plan includes both children's services, and adult services, with Integration Joint Boards/Health and Social Care Partnerships a specified service provider designated under Part 3. The Children's Services Plan must set out how multi-agency partners in the public and third sector will work together at all levels (frontline practice, operational services and strategic planning) so that services, support and improvement activity is delivered locally, through a whole-system approach which spans prevention, universal services and early help, through to more targeted/intensive and crisis support.

The development of a Children's Services Plan requires partners to use available data and intelligence to undertake a multi-agency joint strategic needs assessment (JSNA) to identify the needs of children, young people and families living in that area. This considers the specific needs of certain groups (such as those with complex health conditions/disability, care experience, living in poverty, or young people in transitions). The JSNA should be used to inform service planning and local strategic commissioning processes for the Children's Services Plan, with specific consideration of the needs of young people as they move between receipt of children's and adult services. There are further duties to report annually on how outcomes have been improved for children, young people and families in line with the [statutory aims](#) of Children's Services Planning

[Statutory Guidance](#) on Children's Services Planning, updated in 2020, encourages consideration of the transitions between children's and adult services by integration authorities, local authorities and health boards, in order to achieve the statutory aims prescribed for both a Strategic Plan and a Children's Services Plan.

The legislation requires the development and publication of a Children's Services Plans every three years, with the Children's Services Planning Partnership setting out how organisations and services will work together collaboratively, and in partnership with the local community, to improve outcomes for children, young people and families living in that area. The legislation requires those plans to be reviewed against set criteria, on behalf of Scottish Ministers. A [summary review](#) of Children's Services Plans for 2020 to 2023 was published in July 2022 which reviewed the extent to which Scotland's 30 Children's Services Plans for the period 2020-2023 met the criteria. The report highlighted key strengths, areas for development and details from strategic engagement with local children's services

planning strategic leads and other networks. We continue to work together at national and local level, including through the Children's Services Planning Strategic Leads Network, to improve the effectiveness of strategic planning and to ensure Children's Services Planning Partnerships (CSPP) continue to play a strong role in shaping policy developments and local leadership through effective collaborative planning and delivery of services and support which leads to improved wellbeing.

The integration of certain children's services is not required under the Public Bodies (Joint Working) (Scotland) Act 2014; however, integration authorities may choose to do this. Integration planning principles are set out in section 4 of the 2014 Act, which states that the main purpose of integrated services is to improve the wellbeing of service users. Services should be provided in a way that is integrated from the point of view of service users, taking account of their needs, rights, dignity and participation in the community. Services should also be planned and led locally in a way which engages service users, those who look after service-users and all others those involved in the provision of health or social care.

We are in the process of refreshing the statutory guidance that supports integration authorities to produce their strategic plans and annual performance reports. Through this work, in collaboration with a range of partners, we have sought to broaden the focus of the guidance to ensure links across policy areas, including children's services. This includes encouraging links between strategic plans and Children's Services Plans, and promoting consideration of the transition between children's and adult services that supported people may experience, with an overarching aim of ensuring that services are appropriately planned and connected.

### *Consistency of access and specialist services*

The Scottish Government remains committed to ensuring that every person in Scotland has access to the same high-quality social care and support regardless of where they live or their personal circumstances. In March 2021 we published a [social care: self-directed support framework of standards](#) written specifically for local authorities to provide them with an overarching structure, aligned to legislation and statutory guidance, for further implementation of the self-directed support approach and principles. This framework includes a standard on 'Early planning for transitions'. The standards and action statements outlined in this document were developed to ensure consistency of outcomes and approaches in Self-Directed Support practice across Scotland experienced by supported people (children and adults) and carers.

In addition, we published [The Self-Directed Support Improvement Plan 2023-2027](#) in June 2023 in collaboration with COSLA, with the intention of closing the gap between what was promised in the Social Care (Self-Directed Support) (Scotland) Act 2013 and the current reality of people supported by self-directed support across Scotland. This plan builds on the successes of previous efforts to improve self-directed support availability, and relies on the continuing work that local authorities do every day to make flexible, personalised care available to thousands of people across Scotland.

The "Golden Threads" of the plan are a number of cross-cutting issues which are fundamental to the full delivery of self-directed support as intended by the 2013 Act and other relevant legislation. The golden threads are areas that all activity related to self-directed support improvement should consider in implementation. One of these

golden threads is the importance of transitions – both from children’s to adults’ services, and at other life stages, for example moving into residential care or out of hospital.

Every child and young person in Scotland also has the right to good quality health care that meets their needs and respects their rights. To provide examples from a number of specialist areas:

- In 2018 we published the [Transition Care Plan \(TCP\) Guidance](#), describing the standards required in the planning of good transitions for young people moving from Child and Adolescent Mental Health Services (CAMHS) to Adult Mental Health Services. This approach allows flexibility for those aged 18-25 to continue their care and treatment with CAMHS, where this is in their best interests, rather than automatically transfer to adult services. The National CAMHS Service Specification requires a robust TCP for those children and young people who are more at risk of adversity during transitions (including children supported under the Additional Support for Learning Act). The key principle is that the care provided, and those providing the care, should be determined by the needs, wishes and best evidence for that care, and not solely on the chronological age of the young person being supported. The ethos of this approach is to encourage joint planning of care for those who have mental health needs that necessitate TCPs. Decisions should be clinically led and made jointly between adult services and CAMHS to ensure smooth transitions.
- Our [5 Year Framework](#) to improve neurology services also includes a commitment to ‘work with key partners across sectors, to embed the Principles of Good Transitions, as a good practice framework for transitions for people living with neurological conditions.’ This includes transitions for adults with neurological conditions across different care settings as well as from child to adulthood. We have produced a midpoint progress report on the framework that can be found [here](#).
- The Scottish Government has funded a partnership between the NHS, third sector and academic institutions which has provided the following outputs:
  - development of a definition of transition for people with neurological conditions,
  - published a [systematic literature review](#),
  - worked with adults/young adults with a neurological condition, caregivers and families to explore the impact of ‘life’ transitions and health and social care transitions on the individual and their significant others.
  - identified areas for improvement and inform future design processes.Following the published outcomes of this work we will consider the development of a national work programme to facilitate adoption and promotion of the principles of good practice.
- Our [Respiratory Care Action Plan \(2021-2026\)](#) also contains a commitment to improving pathways for a good transition, and ensuring that all young people with a long-term respiratory condition go through a dedicated transition service. This was identified as a priority for implementation, and a sub-group of the Scottish Respiratory Advisory Committee, made up of clinicians and



third sector representatives has been working to produce a guideline document on best practice in respiratory transitions. This is in its final stages of drafting and will be published in the next few months.

- Our [Diabetes Improvement Plan Refresh \(2021-2026\)](#) contains a commitment to review and update the National Standards for Transition for young people living with diabetes. This work will be led by the Type 1 Sub-Group of the Scottish Diabetes Group.

In addition, in our publication [Equality, opportunity, community: New leadership A fresh start](#), we have committed to helping all school leavers by 2026 to access the transition support they need to achieve their potential, and to ensuring every young person aged 16-24 can further their education or secure a job or training place. The employer led [Developing the Young Workforce \(DYW\) programme](#) continues to facilitate the engagement between employers and schools to support young people transition into the world of work. DYW school coordinators work within schools to align tailored, individual support for young people with the needs of employers, working collaboratively across a range of delivery partners. DYW's third sector partners provide targeted provision for young people at risk of disengaging by offering work-based learning, work inspiration and mentoring while connecting educators and young people with a network of inspirational business leaders.

Skills Development Scotland support young people who are care experienced and/or disabled to take up Modern Apprenticeship opportunities by offering training providers/employers the highest level of support available to support their training up to the age of 29 years. Skills Development Scotland have also worked with ARC Scotland to embed the principles of good transitions in their service delivery. This has included developing learning for practitioners and developing and delivering a joint webinar with ARC Scotland to support parents and carers to understand the principles, promote Skills Development Scotland career services and raise the aspiration of individual career choices. We will ensure that the principles of good transitions continue to be embedded in the delivery phase of the Skills System Review recently delivered by James Withers.

**Page 17: The Committee also asks the Scottish Government to set out what steps it will take to address current resource and staffing pressures in relation to transitions.**

Our workforce is at the heart of delivering health and social care services to the people of Scotland. We acknowledge the significant pressures that the workforce has faced, and that sustained actions are required from planning for and attracting into the workforce through to supporting and delivering recovery, growth and transformation of our workforce. This is critical to Scotland's recovery from the COVID 19 pandemic, within the wider context of addressing inequalities and making a continued shift to early intervention and prevention. We published our [Health and social care: national workforce strategy](#) in March 2022. This Workforce Strategy sets out a national framework to achieve our vision of a sustainable, skilled workforce with attractive career choices where all are respected and valued for the work they do. The strategy sets out a tripartite ambition to:

- create the conditions through which our workforce, and by extension our health and social care services, can successfully recover from the pandemic.
- Grow the health and social care workforce sustainably, in line with Scotland's population demographics, and the demands on our health and social care services.
- Transform the ways in which our workforce is recruited, trained, equipped and organised to deliver health and social care services, in order to achieve long-term sustainability through increased effectiveness and improved population health outcomes.

We acknowledge the significant pressurised workloads and low morale overall within the social work profession. We are committed to improving the experience of the social work workforce, ensuring it is more sustainable in the longer term. We have introduced measures to address the acute recruitment and retention challenges facing the social work profession, in collaboration with COSLA and other key stakeholders. We plan to address immediate and longer-term recruitment and retention challenges with initiatives such as: maintaining a reserve list of social workers; reviewing pay disparities aligned with a framework that remunerates qualifications and experience; international recruitment and improving access to social work education.

Regarding the education workforce, we are committed to protecting the number of teachers and support staff, including those who have a role in supporting disabled children and young people and those with additional support needs. We are providing £145.5 million for this purpose in 2023/24 and have set out measures to Parliament making it clear that we will withhold or recoup this funding from local authorities if teacher and support staff numbers are not being protected.

We also recognise that the third sector needs stability and the opportunity for longer term planning and development. We are committed to developing a Fairer Funding approach for the third sector, however, the ongoing volatile economic circumstances present additional challenges. We will continue to build the case for multiyear funding and will explore the extent to which it could be secured within unpredictable economic circumstances, and the impact and long term benefits we would expect to realise. We will also further develop the other wraparound elements of the Fairer Funding commitment during 2023-24 including prompt notification of funding, outcome-based flexible funding, and proportionate administration around applications and reporting.

### **Existing policy and legislation- conclusions**

#### **Page 20- The Committee asks the Member in Charge and the Scottish Government to carry out detailed analysis of how the provisions in the Bill would interact with existing legislative provisions.**

We have raised our concerns earlier in this annex in relation to the legislative competence of Part 1 section 6 of the Bill as introduced which sets out a proposed duty for a Minister with special responsibility for transitions.

There was also a recognition from many respondents to the previous consultation and call for views that a considerable body of legislation and policy was already in place to support transition planning for disabled young people. We share these concerns about the duplication and overlap of key aspects of existing legislation and the additional complexity and confusion that this Member's Bill could bring to disabled young people and their families, as well as to professionals trying to navigate this landscape.

As we highlighted in our evidence to the Committee, the proposed duty within Part 2 of the Bill for a local authority to "prepare and implement a transitions plan for each disabled child and young person within the local authority area" would overlap with a number of existing statutory planning requirements, particularly the Education (Additional Support for Learning) (Scotland) Act 2004 for school aged children. For children and young people who are eligible, there is also overlap with support and planning under the Social Care (Self-directed Support) (Scotland) Act 2013, and, for care experienced children and young people, under the Children (Scotland) Act 1995 and The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003. We provide further detail of these below.

The proposed Bill would duplicate key aspects of the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act), and secondary legislation made under that Act (such as the Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005). However, it should be noted that the personal scope of the 2004 Act is significantly wider than the proposed bill in that it covers children and young people who "for whatever reason" are or would be unable to benefit from school education without additional support, while its material scope is narrower as it only covers school education.

Section 4(1) of the 2004 Act requires education authorities to identify, provide for, and keep under review the additional support needs of children and young people for whose education they are responsible. In respect of some children and young people, the education authority further has a duty to prepare and regularly review a co-ordinated support plan, which may require the provision of support by "appropriate agencies", which includes health boards, integration joint boards, Skills Development Scotland, all further education colleges and higher education institution (section 9).

Section 12(6) of the 2004 Act makes specific provision in relation to a child or young person's transition out of school, and imposes a duty on the education authority to: (1) request no later than 12 months before the child or young person is expected to leave school information from such appropriate agencies as they see fit about the provision they are likely to make for the child or young person; (2) seek the views of the child or young person, or their parent; and (3) take account of any provision the authority (other than in its school education function) are likely to make, in determining the provision of additional support for learning in the period before the child or young person leaves school. In terms of section 13, the authority must further share relevant information with such appropriate agencies as it considers appropriate no later than 6 months prior to the child or young person leaving school. A competent child or young person, or their parent, may also make a reference to the First-Tier Tribunal in respect of the 2004 Act's transitions provision under section 18(3)(g) of the Act.

In our view, Part 2 of the proposed Bill would substantially duplicate the transitions provisions of the 2004 Act so far as school age children and young people are concerned, and it is unclear what the proposed Bill would add to the existing law which applies to those children. In some respects, the proposed Bill may risk introducing confusion about the precise nature of the duties placed on education authorities, and the enforcement mechanisms available to children, young people, and their parents.

Other aspects of the proposed Bill depart from existing law in a way which may raise questions about the applicable law at certain points. For example, section 13(2)(a) of the Member's Bill, in relation to dispute resolution, would permit children aged 14 and over who have been assessed to have capacity for that purpose to participate in their own right in any dispute resolution process for which the Scottish Ministers may make provision. Under the 2004 Act children aged 12 or over with assessed capacity may do so, including by way of a reference to the First-Tier Tribunal's additional support needs jurisdiction, or to the dispute resolution mechanism established by the Scottish Ministers under section 16 of the 2004 Act.

The Social Care (Self-directed Support) (Scotland) Act 2013 (the 2013 Act) is the law that tells local authorities what they must do to give access to self-directed support in a way that supports people's rights to choice, dignity and being able to take part in the life of their communities. From 1 April 2014, the 2013 Act placed a duty on local authorities to offer people who are eligible for social care a range of choices over how they receive their support. The 2013 Act applies to children, young people (including those in transition to adulthood) as well as adults who need social care services or support. The statutory guidance states that support planning covers a wide range of issues but will tend to include a discussion of: the choices available to the supported person; the main risks and how the supported person and others can manage those risks; and the resources that will help to deliver the person's support plan. If the supported person is a child, then the process should be part of a single plan for the child.

In addition to this Act, there is other existing legislation which provide the legal basis for assessing need and providing support:

- The duty to assess an adult's need for care and support: Section 12A of the Social Work (Scotland) Act 1968;
- The legal basis for support to children: Sections 22 and 23 of the Children (Scotland) Act 1995;
- The legal basis for identifying carers' needs and providing support: Parts 2 and 3 of the Carers (Scotland) Act 2016.

The proposed Bill could also bring duplication and confusion to the principle legislative duties for a local authority to ensure that a young person is supported on leaving care. These duties are currently set out in the Children (Scotland) Act 1995. Section 17 of the 1995 Act relates to the "Duty of a local authority to a child looked after by them" and subsection 2 specifies that local authorities have a duty to provide "advice and assistance with a view to preparing the child for when he is no longer looked after by a local authority."

The regulations and guidance specific to pathway planning and coordination are central to The Support and Assistance of Young People Leaving Care (Scotland)

Regulations 2003. This sets out the duties of a local authority to carry out a pathway assessment, including the identification of a pathway coordinator, ensuring that the young person is involved in this process, and the review processes. The 2003 regulations are accompanied by guidance: [Supporting young people leaving care in Scotland: regulations and guidance](#); and the Pathways Handbook, which can be found on many local authority pages.

In addition to the overlap with existing legislative duties above, we also previously highlighted existing non-statutory forms of plans for children and young people. These include the child's plan (GIRFEC), the anticipatory care plan (health) and the transition care plan (mental health).

### **The need for statutory transition plans and additional legislation- conclusions**

**Page 26- The Committee notes the Scottish Government review of Co-ordinated Support Plans, published in November 2021. The report recognised that it was widely accepted that Co-ordinated Support Plans were underused. The Committee requests an update from the Scottish Government regarding progress that has been made in addressing the conclusions of this report to date. The Committee acknowledges that quantitative data exists in relation to the destinations of disabled young people post-transition, but notes that there is currently no systematic collection of qualitative data on children and young people's experiences of transitions to adulthood, and that this should be collected.**

#### *Review of Co-ordinated Support Plans*

In response to the first part of this question, the actions identified in the final report of the [Short-life Working Group on Co-ordinated Support Plans](#) (CSPs) is being taken forward alongside broader work set out within the action plan to enhance implementation of additional support for learning. Specifically, work is underway to refresh the Supporting Learners' Code of Practice, which is considering any clarifications required around the decision-making process for the use of CSPs. Further, complementary work is being undertaken to develop and provide access to a suite of national relationship based professional learning approaches and resources applicable to education and multiagency partners. Progress with this work is due to be reported in May 2024.

#### *Collection of qualitative data*

As mentioned earlier, in 2022 the Scottish Government awarded the Diffley Partnership a short-term social research contract to support the development of a National Transitions Strategy. Qualitative findings from the research highlights common challenges and examples of effective practice in improving transitions to adulthood for disabled young people across a number of life courses, and found that many disabled young people express optimism and excitement about this time in their lives. However, common experiences and challenges during this period of a disabled young person's life included:

- stress and uncertainty for the young person;
- difficulties transferring from child to adult services;
- changes in eligibility for services, and support arrangements;



- a sharp drop in support;
- inadequate transition-planning and a lack of clear information with regards to the transitions process;
- inadequate account being taken of young people's views, needs and aspirations;
- stress and difficulties faced by family members relating to the transition process.

There was also consensus across the Scottish, UK and international evidence that positive transitions are characterised by:

- early and sustained transition planning;
- holistic and co-ordinated wrap-around support;
- services delivered in partnership;
- designated keyworkers as a coordinating point of contact and continuity;
- person-centred support and preparation;
- family involvement in planning and decision-making;
- parental and familial support throughout the transition;
- the provision of clear and accessible information;
- adequate services, resources and staffing.

A focus of ARC Scotland's Principle into Practice trial programme was to review current approaches to data gathering and evaluation, as gathering feedback from young people, parents and carers consistently and at scale is essential to the Principles into Practice framework. Throughout the framework ARC Scotland have identified the most important feedback relevant to each of the seven principles of good transitions.

To enable gathering of this feedback, the web-based application 'Compass', which has been developed through funding from the Scottish Government to ARC Scotland, invites users to respond to key evaluation questions, thus helping to gather anonymous qualitative feedback on what is working and what could be better. With a data sharing agreement in place, this feedback can then be provided to help shape transitions services and policy in local authority areas. For example, Compass asks young people: Is anyone helping you work out what you want to do in the future? Does your plan include the things most important to you? Are you able to do the things most important to you? It also asks parents and carers to what extent they: Are satisfied with the support their young person is receiving to plan for their future? Know about the roles and responsibilities of the people involved? Are satisfied with the support they are getting?

As previously stated, the Scottish Government is providing a further two years' funding to ARC Scotland to continue to implement Principles into Practice and the use of Compass more widely across Scotland. Further consideration will also be given to the collection of qualitative data on children and young people's experiences of transitions to adulthood, to ascertain the extent to which young people are experiencing a positive and supported transition to young adult life, as part of the development of the National Transitions to Adulthood Strategy.

### **Age - conclusions**

**Page 29- The Committee believes that transitions planning should start from an early age and be embedded in the support received by disabled young people. The planning process should evolve at a pace set by the young people themselves. The Committee encourages the Member in Charge and the Scottish Government to explore how flexibility could best be incorporated into transitions planning in future.**

We agree with the conclusions reached by the Committee in respect of transitions planning. These echo ARC Scotland's Principles of Good Transitions, which suggest that planning should begin early and continue up to age 25, as well as the evidence gathered from our published literature review which also found that that positive transitions are characterised by early and sustained transition planning.

The Additional Support for Learning legislation, and the approach under Getting it right for every child, offers flexibility to ensure that all children and young people get the right support at the right time, so that every child and young person in Scotland can reach their full potential.

As we have outlined earlier in our response, local authorities have a statutory duty to plan for the transitions of children with additional support needs (including those arising from disabilities). This includes pre-school, when changing school and post-school transitions. The Additional Support for Learning Act 2004 includes specific provisions relating to transitions. These set out the deadlines for transitions planning however education authorities have flexibility, and are encouraged, to begin planning for children and young people's transitions well in advance of these deadlines. These statutory deadlines are:

- Where a child or young person is expected to leave school (at the end of primary school or when leaving secondary school) the education authority has a duty to request from an appropriate agency or agencies as necessary, information about the provision that is likely to make for the child or young person on leaving school. This should take place no later than 12 months before the expected leaving date.
- Similarly, they must provide information to other agencies no later than six months before a child or young person is expected to leave school, provided the child, young person, or their parents agree.
- In both circumstances where a child or young person decides to leave unexpectedly this should take place as soon as reasonably practicable.

The Additional Support for Learning statutory code of practice acknowledges that for children and young people whose needs are identified at an early age, transition planning will build upon existing plans already in place for the child in question, whether a statutory Co-ordinated Support Plan, another support for learning plan or a child's plan. Children and young people and their parents should also have the opportunity to input into the planning process.

The joint Scottish Government and COSLA additional support for learning action plan is focused on improving the implementation of the existing policy and legislative framework. This includes considering the findings of the ARC Scotland's Principles into Practice trial during updates to the statutory code of practice guidance on Additional Support for Learning. Further progress with this work is due to be reported in May 2024.

In addition to this, the Scottish Government is reinforcing our commitment to GIRFEC, and refreshing policy and practice materials, including effective planning for transitions for all children and young people. The Committee will be aware that following the UK Supreme Court ruling in August 2016, Parts 4 (named person) and 5 (child's plan) of the [Children and Young People \(Scotland\) Act 2014](#) were not commenced, and both parts of the legislation will be repealed. The child's plan, albeit to be provided on a policy rather than legislative basis, remains an important part of supporting the wellbeing of children, young people and their families. The child's plan can offer families a simple planning, assessment and decision-making process which leads to the right help, at the right time. It should reflect the voice of the child or young person and include a clear explanation of why the plan has been created, the personalised actions to be taken and the expected improved outcomes for the child or young person.

As we have previously stated, we are also currently co-designing GIRFE, a proposed multi-agency approach of support and services from young adulthood to end of life care. This approach will help define the adult's journey through individualised support and services and will respect the role that everyone involved has in providing support planning and support. The place-based pathfinders helping to co-design GIRFE are aligned to five thematic areas, including families with multiple and/or complex needs, and young people in transition from GIRFEC to GIRFE.

### **Definition of disability and identification of eligible children and young people- conclusions**

**Page 32: The Committee shares the concerns expressed by some stakeholders that children with Additional Support Needs - particularly those with acute, short term ASN such as bereavement or homelessness - but not necessarily a disability, would be eligible for support as children under the existing legislative framework but would not be entitled to a plan under this Bill.**

**The Committee would welcome feedback from both the Member in Charge and the Scottish Government regarding this point.**

We agree with these concerns and have set out previously how the proposed Bill would duplicate key aspects of the Education (Additional Support for Learning) (Scotland) Act 2004 and secondary legislation made under that Act (such as the Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005). We have also highlighted that the personal scope of the 2004 Act is significantly wider than the proposed bill in that it covers children and young people who "for whatever reason" are, or would be unable to benefit from, school education without additional support.

Under the Education (Additional Support for Learning) (Scotland) Act 2004, support can be provided as soon as a need has been identified. No diagnosis is required in order to access support. The broad definition of an additional support need under the 2004 Act (section 1) includes needs that can arise for 'whatever reason' irrespective of their duration. As set out in the Additional Support for Learning code of practice statutory guidance, transition duties under the 2004 Act would apply where a child or young person has a disability as defined by the Equality Act 2010. The 2004 Act's

material scope is narrower as it only covers school education, however the benefit of additional statutory duties in this area for school age children remains unclear.

### **Impact on the parents and carers of disabled children and young people- conclusions**

**Page 36: The Committee asks the Scottish Government what it is doing or plans to do to ensure that parents, carers and legal guardians are provided with the support and resources they need to support their young person's transition to adulthood.**

Over the last 10 years, the Scottish Government has provided over £1.3m grant funding to ARC Scotland's Scottish Transitions Forum and is providing a further 2 years' funding between 2023-2025 to continue the work of the forum and support the wider implementation of Principles into Practice and Compass. Through the Scottish Transitions Forum, ARC Scotland provides information and networking for parents, young people and professionals around transitions in Scotland, including the facilitation of a parent carer network to support parents and carers of young people with additional support needs going through transitions.

As previously stated, through funding from the Scottish Government to ARC Scotland to trial Principles into Practice in ten Local Authority areas, ARC have also developed 'Compass'- a web-based application which has been developed with young people and parents and carers. There are three versions of Compass- for young people, parent carers and professionals, and the tool provides tailored information and advice to parents to help them navigate the transitions journey, signposting to tailored information and support. Compass was launched in June 2023 and is now freely available across Scotland. More information on Compass can be found [here](#).

We also working closely with parent carers through the National Transitions to Adulthood Strategy Strategic Working Group to consider the support networks around disabled young people, as part of support for disabled young people in the transition to adulthood. We are considering these views in the development of the strategy, to ensure all disabled young people can experience a supported and positive transition to adulthood.

In addition to this work, the Scottish Government also funds the Enquire service to provide advice to parents and carers on additional support for learning. This includes advice in relation to transition duties under the Education (Additional Support for Learning) (Scotland) Act 2004. In response to the recommendations of the 2020 review, the Scottish Government increased annual funding to Enquire to ensure that it continues to be effectively resourced to meet the needs of the families that it supports.

Parents and carers also have access to free advocacy and legal representation in relation to disputes under the Education (Additional Support for Learning) (Scotland) Act 2004 through the [Let's Talk ASN service](#) which is funded by the Scottish Government. The ASL action plan also includes actions aimed at improving the proactive provision of advice and support to families by schools and local authorities on additional support for learning. Further progress with this work is due to be reported in May 2024.

In line with GIRFEC principles and the principles of the Social Care (Self-directed Support) (Scotland) Act 2013, children and their families should receive the support they need in order to help them to make the relevant decisions and manage their support. This may include independent advice and support or advocacy services. [The Support in the Right Direction \(SiRD\)](#) programme is funded by Scottish Government and provides local independent support, advice and advocacy in line with Scottish Government's vision for Self-Directed Support. The organisations work with people and carers at every stage of their social care journey, providing independent support that is integral to social care. They ensure a person-centred approach and respond flexibly to individual circumstances to provide direct, end-to-end, independent support for all social care user groups.

The Children, Young People and Families Early Intervention and Adult Learning and Empowering Communities Fund (CYPFEI & ALEC) has provided core funding to third sector organisations since 2016 to deliver support that tackles inequalities, child and family poverty, improve learning and build skills. One of the organisations in receipt of funding via the CYPFEI & ALEC Fund is Contact. The work undertaken by Contact includes delivery of the [Talking about Tomorrow transition website](#), a helpline and transitions workshops providing parent carers with advice and support.

In 2016, the Scottish Government funded a survey of families with disabled children and young people across Scotland to gather evidence about their information needs. Families said they would favour a centralised resource which signposts to relevant information and organisations. In response to these wishes, an online [resource](#) was published in 2019. This resource is being updated and aims to be as helpful as possible by providing signposts to existing sources of information on a range of topics including transitions. The Scottish Government and partners have also worked with Parent Club to publish a [Family Support Directory](#) which provides signposting for parents and carers to organisations, benefits and information across a range of topics including on additional support for learning.

In addition, all unpaid carers, including parent carers, have rights under the Carers (Scotland) Act 2016 to a personalised plan to identify what is important to them. Carers have the right to support to meet their eligible needs. If a parent carer is supporting a child who is approaching the transition to adult services, transition information and support can be considered as part of the process. This may allow for the carer to prepare for their child's transition and be in a better position to support their child through the process.

Section 34 of the Carers (Scotland) Act 2016 also requires each local authority to establish and maintain an information and advice service, covering a wide range of issues relevant to carers needs, including supporting carers with future care planning. Local authorities generally commission carer centres to deliver these information and advice services in their area. This is to ensure carers are able to access independent and comprehensive information and advice to assist them with decision making in relation to their caring role and access to appropriate support and services, at the right time.

### **Communications and advocacy- conclusions**

**Page 38: The Committee acknowledges the importance of access to independent advocacy, communication aids, languages such as Makaton, and**



**interpreters for disabled children and young people going through the process of transitions.**

**The Committee recognises that disabled children and young people are the experts in their own needs and that they should be at the centre of the transitions planning process. Any adaptations or support required by the young person in order to communicate must be provided to ensure a person-centred planning process.**

**The Committee asks the Scottish Government to set out how it ensures that these requirements are met.**

### *Child centred approaches*

The Scottish Government is committed to ensuring that the views of children are a primary consideration in decisions that affect them. Under Article 12 of the United Nations Convention on the Rights of the Child (UNCRC), every child and young person who is capable of forming their own views has the right to express those views freely in all matters that affect them, with those views being given due weight in accordance with their age and maturity.

As the Committee will be aware, the Scottish Government is absolutely committed to Scotland being the first UK nation to incorporate the UNCRC into domestic law, ensuring we are a country that respects, protects and fulfils children's rights. Following the Cabinet Secretary for Social Justice's [Parliamentary Statement](#) on 27 June, we are currently making arrangements to begin the process of Parliamentary Reconsideration of a revised UNCRC (Incorporation) (Scotland) Bill.

Under the Education (Additional Support for Learning) (Scotland) Act 2004, education authorities already have duties to identify, provide for and review the additional support needs of their pupils. This includes support for children and young people with specific communication needs. Authorities also have duties to seek and take account of the views of children and young people in relation to their transition.

In addition, GIRFEC policy and practice guidance materials set out that all practitioners should work together and alongside families to empower children and young people, ensure that their rights are respected, and that their views and wishes are fully considered and reflected in decision making about their own lives. Through GIRFEC, a young person's right to feel respected includes being involved in, and having their voices heard, in decisions which affect their life, with support where appropriate.

### *Independent Advocacy*

For many children and young people, particularly those who may be most at risk of not having their rights met, we know that advocacy can be fundamental in ensuring the realisation of their rights. We have increased support to Clan Childlaw, to enhance their capacity; to provide advocacy support for children and young people; to develop training and materials; to work with Scottish Government to help identify areas where children's rights are not being met, and to develop child-centred legal professional training.

We also fund a national children's service called [My Rights, My Say](#) made up of four elements - advice and information, seeking children's views, advocacy and legal representation - which together ensure that a child can be fully supported when exercising their rights under the Education (Additional Support for Learning) Scotland Act 2004, including in relation to transition planning. We also fund [The Support in the Right Direction \(SiRD\)](#) programme which, as described earlier, provides local independent support, advice and advocacy, ensuring a person-centred approach and responding flexibly to individual circumstances to provide direct, end-to-end, independent support for all social care user groups.

### Communication support and accessibility

The Equality Act 2010 requires service providers to make reasonable adjustments in circumstances where a disabled person is placed at a substantial disadvantage in comparison with non-disabled people. That requirement covers changing the way things are done including providing auxiliary aids and services. Section 149 places a duty on public authorities to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and to foster good relations between persons who share a protected characteristic and those who do not. This is known as the Public Sector Equality Duty (PSED). Although the 2010 Act is largely reserved, Scottish Ministers have supplemented the general duty by placing detailed requirements on Scottish public authorities through the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 which are aimed at supporting Scottish public authorities to improve implementation of the PSED. Responsibility for complying with the requirements of the Equality Act 2010 rests with individual organisations.

In addition to existing legislation, the Scottish Government is committed to introducing a new Human Rights Bill during the current parliamentary session, giving effect to a wide range of internationally recognised human rights - including the United Nations Convention on the Rights of Persons with Disabilities (CRPD) - within the limits of devolved competence. Incorporation of CRPD will place greater impetus on public bodies to remove barriers and support disabled people to participate, access services and live independently. The Bill will also provide mechanisms to ensure equal access to the rights in the Bill for everyone and embed dignity into the decision-making of those delivering public services.

We know that communication equipment and associated technical support (frequently referred to as Augmentative and Alternative Communication (AAC) can make a real difference to those people without speech, making sure they have a voice to be heard. We are continuing to work with our partners to support the ongoing delivery of the duty and to improve AAC provision where needed.

Though Part 4 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, NHS boards in Scotland already have a duty to provide communication equipment and support to use that equipment. This duty applies to children, young people and adults, who have lost their voice, or have difficulty speaking, and in the main is delivered through Speech and Language Therapists.

The Scottish Government also funds the [Contact Scotland BSL](#), an online interpreting Video Relay Service, which enables Deaf and Deafblind British Sign Language (BSL) users to telephone, via video relay interpreters, private sector

numbers as well as statutory and third sector numbers, 24 hours a day, 365 days a year. The service is provided by [Sign Language Interactions \(SLI\)](#) on behalf of the Scottish Government and it offers BSL users the means to communicate in real-time, with services and family and friends. The service is also accessible to Deafblind BSL users, by making use of braille displays and speech synthesizers.

### **Who manages the transitions plan?- conclusions**

**Page 41: The Committee is of the view that in order to deliver effective transitions planning, those carrying out the planning would require additional resources and that this would need to be factored into the costs set out in the Bill's Financial Memorandum. In the absence of additional resources being provided, the Committee is aware that this may mean existing resources will have to be reallocated. The Committee asks the Member in Charge and the Scottish Government to set out how they see the provisions in the Bill operating, in the absence of additional resources being provided.**

**The Committee asks the Member in Charge and the Scottish Government to respond to the findings relating to the management of transitions plans.**

### **Operation of Bill provisions in absence of additional resources**

We share the committee's concerns regarding under estimations made in the Financial Memorandum accompanying the Bill regarding the work, time and complexities involved in delivering effective transitions planning.

For example, the Financial Memorandum suggests that transitions plans may no longer be needed or wanted by young people who enter a 'positive destination' such as higher education or employment immediately after school. However, transitions are not about a single move to a positive destination, but the gradual transition from childhood to a young adult life. In our response to the call for views and through the evidence provided previously to the Committee, we highlighted other aspects of the Financial Memorandum that were likely to be underestimated. Similar concerns were raised by COSLA. In addition, all the Local Authorities and Joint Health and Social Care Boards which responded to the call for views from the Finance and Public Affairs Committee, noted that the Bill would have a significant financial impact.

We recognise that additional resources would be required to meet the proposed duties set out within the Bill, most notably for the requirement for Local Authorities to prepare and implement individual transitions plans for all disabled young people post school in a local authority area. The Committee will be aware that the current financial landscape is challenging, and we are having to take difficult decisions across the board. Against this backdrop, it is crucial that any new statutory duties are clearly defined, targeted and likely to have the intended impact. Given the evidence heard, and questions raised by the Committee, we believe that focusing on improving and further embedding the existing policy and legislative framework may be more effective than introducing new duties.

### **Management of transitions plans**

Alongside our concerns around the current underestimation of resources required for the Bill, we also have concerns about how this Bill could be practically implemented, and whether it would have its intended impact. There are many considerations that are important to young people and their parents and carers beyond achieving a single positive destination. We believe that further consideration and clarification is required to identify who would be responsible for planning post-school, and how is it proposed to make sure that planning is an ongoing process, not a single event, and that the plan becomes a reality, ensuring the needs, outcomes and dreams identified by the young person are met, achieved and reviewed.

Young people themselves have stressed the importance of transitions support taking a holistic view, to help them achieve personal goals and aspirations, such as moving into their own home, as well as more traditionally understood positive destinations such as gaining entry to further education or employment. Some young people are likely to continue to require support to move on from initial employment, or further study; and to support other aspects of their transition to adulthood. Any planning or transitions support needs to be person centred, consistent and relationship based. It is not clear that the planning requirement within the Bill could address these concerns. It is also not clear how a single individual within a local authority could take responsibility for the management of the transition plans post school, which could span a number of life-course and institutional transitions for which a local authority representative may not have the knowledge and/or the responsibility for.

As we have already set out, there are already frameworks for planning and support under existing legislation and policy. In addition to this, the Scottish Government supports transitions planning through the [Independent Living Fund \(ILF\) Transitions Fund](#). The ILF Transition Fund offers one year grants up to £4000 to young people aged 16 to 25 with a disability or impairment as defined by the Equality Act 2010, to support their move into adulthood and independent living. The Transition Fund gives young disabled people flexibility in how to use the money. ILF also offer a Person Centre Planning Grant to help young people look at the goals that they want to achieve and the support that they will need to achieve them. This service can be provided by professionals who have been trained to help young people plan for their future and can help with person centred planning.

As we have previously stated we have also funded by ARC Scotland to develop [Compass](#). Compass was launched in June 2023, and is now freely available across Scotland to provide tailored information and advice to young people, parent carers and professionals to help them navigate the transitions journey. The young person's version helps young people to work out what matters to them and share their views with others.

These flexible, demand led and person-centred approaches to transitions support complement statutory and policy frameworks to ensure those that require greater support can access it. We do however recognise though that some young people are not yet receiving the support that they need, and we need to do more. Through the development of Scotland's first National Transitions to Adulthood Strategy, we will consider, with our partners, what further actions are needed to ensure all disabled young people can experience a supported and positive transition to adult life.

## **Communications and information sharing across agencies- conclusions**

**Page 43: The Committee notes the national roll out of Compass, the online tool developed by ARC Scotland, scheduled for April 2023 following a trial of two years.**

**The Committee acknowledges that transitions are often complex and require coordination between a large number of people, organisations and agencies. There can also be multiple transitions for a young person that do not necessarily take place in tandem. The responsibility to facilitate communication between different agencies and coordinate highly complex transitions must not fall to parents, carers and young people alone.**

**The Committee asks the Scottish Government and Member in Charge to respond to the conclusions set out above.**

We recognise this complexity and agree that information sharing is a key challenge and that it should not fall to young people, parents and carers to facilitate alone. We are also aware that the Information Commissioner's Office have highlighted data sharing and General Data Protection Regulation considerations raised by the Member's Bill in its response to the Committee's call for views, particularly the requirement to develop individual transitions plans for all disabled children and young people.

We have also heard from disabled children, young people and their families about how frustrating, and at times, distressing it can be to have to repeat their stories and experiences to different agencies and services. The Scottish Government has supported the development of a number of person-centred tools for young people and their families such as; the "My Communication Passport" (Commpass), which is available on [Education Scotland's resource hub](#); the [PAMIS Digital Passport](#) which has been developed to support families caring for people with profound and multiple learning difficulties and more recently 'Compass', which was developed with young people and parents and carers to help navigate this complex landscape. The three versions of Compass help those with a role in transitions to understand the professional duties required at each stage of transition, and provide the tailored information and advice young people and parent carers receive to help them navigate transitions.

In addition to the development of Compass, the Committee also heard of the wider successes of ARC Scotland's Principles into Practice Trials in 10 Local Authority areas. The trial [impact report](#) which has now been published, highlights the different ways in which local authority areas sought to facilitate better communication between agencies, and a more co-ordinated approach to transitions.

Approaches varied across areas and included: dedicated transitions leads from children's and adult services and, in one instance, a third lead from education; establishing transitions forums; cross-sector learning exchanges; and trialling joint commissioning between children's and adults services. In one instance, a Local Authority area appointed a dedicated transitions co-ordinator to support the transitions process across the local authority area and to act as a point of contact for young people, their families, and partners from other services, for information and support around transitions. Another area appointed a transitions development



worker. Key learning from the trials is now being considered as part of the development of Scotland's first National Transitions to Adulthood Strategy.

As we have also previously set out, the Education (Additional Support for Learning) (Scotland) Act 2004, already includes specific provisions relating to transitions. Where a child or young person is expected to leave school (at the end of primary school or when leaving secondary school) the education authority has a duty to request from an appropriate agency or agencies as necessary, information about the provision that is likely to be made for the child or young person on leaving school. This should take place no later than 12 months before the expected leaving date. Similarly, they must provide information to other agencies no later than six months before a child or young person is expected to leave school. As set out in the code of practice statutory guidance, transition duties under the Act would apply where a child or young person has a disability as defined by the Equality Act 2010.

In addition, GIRFEC already provides Scotland with a consistent framework and shared language for promoting, supporting, and safeguarding the wellbeing of children and young people, and building a flexible scaffold of support: where it is needed, for as long as it is needed, including at the point of transitions. This is delivered through the core components of:

- a named person who is a clear point of contact for children, young people and families to go to for support and advice. A named person can also connect families to a wider network of support and services so that they get the right help, at the right time, from the right people;
- a shared and holistic understanding of wellbeing and a single model of how this can be considered and supported; and,
- a single, shared and rights-based approach to planning for children and young people's wellbeing where support across services is needed, co-ordinated by a lead professional.

As part of the publication of GIRFEC policy and practice guidance materials in September 2022, [information sharing practice guidance for practitioners](#) was produced to provide practitioners with confidence, clarity and practical support to carry out lawful, fair and proportionate information sharing to ensure a child or young person's wellbeing, which complies with all relevant legal requirements. Associated charters for services to share with [children](#), [young people](#) and [families](#) were also published. The GIRFEC information sharing charters explain how children, young people and families can expect organisations to manage their personal information and respect their rights under the data protection legislation.

As we have already highlighted, we are also currently co-designing GIRFE, a proposed multi-agency approach of support and services from young adulthood to end of life care. This approach will help define the adult's journey through individualised support and services and will provide a national practice model to embed inter-agency working, respecting the role that everyone involved has in providing support planning and support. One of the draft GIRFE principles is around joined up working/information sharing, which is ultimately about people and services being enabled to work together in a coordinated way to meet specific needs and improve wellbeing. Furthermore, through information sharing provisions of the NCS



Bill and the Integrated Social Care and Health Record we will develop a nationally consistent, integrated and accessible, social care and health record. The record will allow safe, secure and efficient sharing of social care and health data across relevant care settings, including with the individual.

### **Delegated powers- conclusions**

**Page 51: The Committee notes the recommendation in the DPLR Committee's report that guidance provided for in the Bill should be subject to parliamentary scrutiny under the negative procedure.**

**The Committee notes the Member in Charge's response to the recommendation and asks the Scottish Government to provide its views on the matter.**

The Scottish Government wrote to the Convener of the DPLR Committee on 9 December 2022, setting out our view on the point raised. A copy of this letter can be found [here](#). In this letter to the DPLR Committee, we set out that the Committee appear to have overstated the extent of a legal duty to "have regard" to guidance issued by the Scottish Ministers. Section 14(1) of the Bill currently provides that the bodies must have regard to such guidance, with the DPLR Committee observing that the guidance would need to be followed in all but exceptional circumstances. To clarify, having regard to guidance issued by the Scottish Ministers certainly requires those on whom the duty is imposed to consider the guidance, but it does not require it to be considered as the only or top priority, which may only be departed from in "exceptional" circumstances.

Moreover, there does not appear to be anything out of the ordinary about the guidance that may be issued under section 14 of the Member's Bill, or about the manner in which the power is to be exercised, which would render it necessary or appropriate to make it subject to parliamentary procedure. Making this specific guidance subject to negative procedure, when there is nothing unusual or exceptional about it, is unnecessary and could have an unhelpful impact on future legislation. Making standard guidance, which could be expected to be amended from time to time, subject to parliamentary procedure would also have a potentially unhelpful impact on implementation, as any revisions to that guidance would also be subject to the same parliamentary procedure.

There are potentially other more appropriate methods to achieve transparency and scrutiny of guidance that do not involve the negative procedure. For example, the laying of a draft of guidance before Parliament in advance of it being finalised, with Parliament having the opportunity to consider the draft guidance before it is issued. Another example requires the Scottish Ministers, as soon as reasonably practicable after issuing guidance, to lay a copy of the guidance before the Scottish Parliament.