



Centre for excellence
for Children's Care and Protection

Submission to the United Nations Committee on the Rights of the Child

Days of General Discussion 2021

Children's Rights and Alternative Care

CELCS is Scotland's Centre of Excellence for Children's Care and Protection, based at the University of Strathclyde. We are a leading improvement and innovation centre, working to improve children's lives by supporting people and organisations to drive long-lasting change in the services they need, and the practices used by people responsible for their care.

Our contribution to the Call for Submissions for the Days of General Discussion on Children's Rights and Alternative Care is based on research evidence, practice experience, the voice of children and families, and feedback from networks we facilitate or participate in, comprising practitioners and leaders working across the spectrum of services supporting children and families. Additionally, it reflects innovation and learning emerged during the lockdown period, when the Covid-19 pandemic and related public health measures sparked a level of adaptation to the services provided to children, young people, families and communities.

Prevention and early help

Children and young people in need of care and protection and their families possess unique strengths and needs, which must be considered holistically - their own, those of their families, and of their wider community and society. Nonetheless, there are enduring challenges in relation to the rights of these children, which were highlighted by the UN Committee on the Rights of the Child in its 2016 Concluding Observations to the UK¹, as well as by the Independent Care Review² – a thorough review of alternative care in Scotland. Existing inequalities have intensified in the context of the COVID-19 pandemic in areas such as poverty, food security, digital exclusion and mental health. Poverty is one of the factors that increases the risk of child abuse and neglect, requiring a need for child-centred support to families to address these impacts.

¹ UN Committee on the Rights of the Child (2016) [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#). Geneva: UN Committee on the Rights of the Child

² The Independent Care Review was established in 2017, following a commitment from the First Minister made a commitment to identify how Scotland could care for its most vulnerable children and give them the childhood they deserve. The Care Review listened to those with experience of living and working in and around the 'care system' to understand what changes need to be made. The Review culminated in 2020 with seven reports, containing five foundations for change: voice, family, care, people and scaffolding, with 80 specific changes aimed at transforming how Scotland cares for children and families. The main volume was The Promise: <https://www.carereview.scot/wp-content/uploads/2020/02/The-Promise.pdf> The Promise Scotland has since been established to oversee the implementation of these changes.

A preventative approach is at the heart of GIRFEC³, Scotland's policy framework that aims to support families by ensuring children and young people can receive the right help, at the right time, from the right people, through approaches supporting children consistently as their needs change and evolve. Learning from our work in Scotland shows that supporting families from an early stage can be achieved with a competent and well-supported workforce, strong leadership strategies, and a targeting of resource towards prevention, with agencies across the welfare system working together to support families.

CELCIS has been supporting practice developments within communities that aim to address neglect to consider a more comprehensive, whole system response to reduce neglect and improve outcomes for those families and children who need formal support. The ANEW (Addressing Neglect and Enhancing Wellbeing) partnership has been working with services to adopt and strengthen a community asset approach to addressing neglect. This work uses an Active Implementation methodology, which offers learning on the "ingredients" required to undertake complex change, and highlights the need to develop multi-agency approaches offering a coherent understanding of what neglect is, how it can be identified, and how to understand and assess parents'/carers' capacity to provide attentive care to their children. Effective services offer sustained commitment to the child and their family at a pace in tune with their individual circumstances, and are based on good working relationships and strong points of contact between professionals, a child and their family. ANEW partnership teams use a 'Team Around The Child' approach and encourages cross-discipline working to address issues in a way that enables a common understanding of neglect in localised contexts, and to identify how this should be addressed to meet each individual family's needs, so they feel included and involved in developing the support plan that feels right for them.

Examples of innovative, preventative work enacted during COVID-19⁴ have allowed a recognition of families' strengths and assets, leading to increased trust, and a more equal partnership approach that can help keep families together. Examples include: making direct payments to families as a simpler, non-stigmatising way of meeting basic needs; increased provision of information and support available to all in the community (through helplines, extended working hours to offer advice to care experienced young people; practical support to foster carers); increased assistance for lone parent families; and a Virtual School helpline, as a point of contact focusing on digital access to learning, so children could have all needed equipment and support.

Increased flexibility in the workforce, including changes in working hours and patterns has also meant that more intensive, relational support has been possible, to 'wrap around' the family. This has been enhanced by a decrease in desk-based tasks and processes, freeing professionals' time that could be invested in relational practice, which has helped identifying risks before they escalate.

³ [GIRFEC](#), Getting It Right for Every Child, is a policy framework that supports families by making sure children and young people can receive the right help, at the right time, from the right people. The aim is to help them to grow up feeling loved, safe and respected so that they can realise their full potential.

⁴ Emerging Principles and Characteristics, and Practice and Service Innovations, stemming from the Covid-19 pandemic, CELCIS, Glasgow: September 2020. Further examples of practices and learnings on meeting the challenge of Covid-19 are available at: <https://www.celcis.org/knowledge-bank/spotlight/meeting-challenge-2/>

Providing quality alternative care

The role of the workforce, and the importance of relational practice, is key for the provision of high quality care. Recent [research](#)⁵ outlines the various aspects that contribute to ensuring quality in residential care – which are relevant across all forms of alternative care. They are connected to setting, staffing, safety and treatment, with aspects related to staffing being of particular importance. Studies reviewed for the research highlighted the importance of children’s relationships with their carer(s) as critical for their growth, development and recovery from prior negative experiences. This relational practice is based on caregivers’ capacity to express warmth, engagement and sensitivity, and to provide structure and boundaries. Other critical aspects include providing information to children, creating opportunities for participation, ensuring they have emotional support. Relationships that caregivers establish with children are essential for well-being and (emotional) development. Quality of relationships is affected and impacted by overall working conditions and support that is available to caregivers, such as training, coaching and supervision providing a space for reflection and professional self-awareness. It follows that supportive organisational factors are essential to ensure high quality care, based on relational practice. When the right support and conditions are in place caregivers are available for children, also emotionally, continuity and stability of relationships is facilitated, and relationships between children and caregivers can flourish on the basis of trust.

In Scotland, CELCIS provides support for practitioners through Communities of Practice, which offer supportive spaces for learning and reflection for practitioners, managers and leaders able to influence culture and practice in their respective organisations. Examples of Communities of Practice include the Scottish Physical Restraint Action Group, Participation, Foster Care, and Learning and Development in Residential and Secure Care.

During the COVID-19 lockdown period, a number of innovations have been possible also within alternative care services, including increased stability of relationships in residential care. Factors that have made this possible include changes to staff shift patterns, allowing for greater continuity and predictability; increased quality, relational time between children and carers; young people remaining in positive placements for longer.⁶

Professionals found creative ways to ensure that young people, families and friends could remain connected – using an array of online/digital tools, or arranging discrete, socially-distanced activities. These approaches were supported by the development and agreement of the [Framework for decision-makers to help children in care maintain contact with their families during the Covid-19 pandemic](#)⁷, developed collaboratively by national stakeholders. To note, for some children in residential care reduced face-to-face contact with family helped reduce anxieties and pressure, which highlights again the importance of an individual approach for every child, based on individual needs.

⁵ Porter, R.B., Mitchell, F., & Giraldi, M. (2020) "Function, quality and outcomes of residential care: Rapid Evidence Review". CELCIS, Glasgow.

⁶ Emerging Principles and Characteristics, and Practice and Service Innovations, stemming from the Covid-19 pandemic, CELCIS, Glasgow: September 2020.

⁷ Social Work Scotland, Rights, relationships and resilience: a framework for decision-makers to help children in care maintain contact with their families during COVID-19 pandemic

Transitions from care to adulthood and interdependence

Scotland has a progressive and enabling approach to young people transitioning from alternative care to adulthood and interdependence. The legislative and policy framework takes a needs-based and rights-focussed approach to delivering person-centred care and support for young people.

Young people are encouraged, enabled and empowered to remain in positive care settings until they are ready to move on, positively delaying their transition from care settings until they are sufficiently skilled, and – more crucially - emotionally and psychologically equipped. The [Staying Put Scotland](#) approach demands genuine needs-led assessment and the promotion of consistent positive relationships, transcending both settings and roles. [Continuing Care](#) enables young people to remain in their positive care placement up until the age of 21, encouraging a more graduated approach towards ‘interdependent’ living, over an extended period. The concept of ‘interdependence’ more accurately reflects the day-to-day reality of an extended range of healthy inter-personal relationships, social supports and networks. At its heart are the importance of relationships, ensuring this remains the primary focus for the young person, both within their care experience and beyond, enabling them to develop a greater sense of felt security and emotional resilience.

[Aftercare](#)⁸ enables young people to receive support until their 26th birthday, and transitions and support plans should reflect the key roles and responsibilities of agencies and partners in meeting the young person’s needs through a phased transition into adulthood. This should reflect the dynamic and changing nature of young people’s needs and circumstances as they progress on their journey to adulthood and interdependence. Our [Corporate Parenting](#)⁹ policy and legislation places duties on a number of public agencies to work together to support the range of needs of care leavers and ensure holistic, person-centred support.

Evidence-informed legislative drivers and enabling policy are central to turning policy into practice. Practice is trauma informed and viewed through a developmental lens, acknowledging that simple age-based triggers and thresholds do not work well for most young people. As such, we aim to support a growing understanding of the concept of ‘emerging adulthood’ into all transitions and care leavers’ services. Key policy initiatives such as [Council Tax Exemption for Care Leavers](#) aim to alleviate some of the financial hardship that care leavers can experience when moving into their own accommodation. The [Care Experienced Students Bursary](#) aims to remove a key financial barrier and incentivises uptake to Further and Higher education by providing care experienced students with a full bursary for the duration of their studies.

Despite this positive context, consistent implementation is an ongoing challenge, which demands the support of consistent leadership, empowering practitioners, and facilitating good collaboration across all services and agencies. Launched in 2015, the [Scottish Care Leavers Covenant](#) is the work of a cross-sector alliance of organisations supporting Scotland’s corporate parents, carers, practitioners, managers and decision makers in fulfilling their duties towards care leavers. The Covenant takes a holistic, person-centred approach and focuses on the long-term wellbeing needs of care leavers into adulthood. It calls for a range of implementable actions to be taken by corporate

⁸ Guidance on Part 10 (Aftercare) of the Children and Young People (Scotland) Act 2014

⁹ Corporate Parents are individuals, organisations and groups who have a range of statutory responsibilities and duties to children without parental care and care leavers. Part 9 of the Children and Young People (Scotland) Act 2014 (the Act) put the concept and policy of ‘corporate parenting’ onto a statutory basis, establishing a framework of duties and responsibilities for relevant public bodies, requiring them to be systematic and proactive in their efforts to meet the needs of looked after children and care leavers.

parents to close the gap between policy intentions and consistent practice and is underpinned by four key principles:

- **Care-proofing of policy:** Corporate parents recognise the vulnerability of care leavers as young adults, and prioritise and reference them in policy documents;
- **Assumption of entitlement:** All care leavers are entitled to services, support and opportunities, up to their 26th birthday. Where discretion exists in definitions of vulnerability, or in giving priority access, these will be in favour of care leavers;
- **Staying Put and Continuing Care:** All looked after young people and care leavers are actively encouraged, enabled, and empowered to remain in positive care settings until they are ready to move on;
- **Relationship-based practice:** Young people are supported to maintain positive relationships and attachments with previous carers and professionals throughout their care experience and beyond.

Data to inform decision-making

The collection and use of meaningful data - information, knowledge, and evidence – can support practitioners and decision makers alike make informed decisions about children’s lives, and help to improve services. Data allows practitioners and managers to determine if changes to practice actually result in improvement, providing evidence of what works and, just as importantly, what does not have the intended impact.

Meaningful data can support decision-making at every level. At the individual level, data helps to inform decision making around a child, also providing information that can be used to support where it's difficult for a child to have a voice. Additionally, data helps us understand how systems and processes are working, supporting decision-making about service provision. Looking at aggregate data helps understand performance at the national level, which in turns can be used to inform decisions about policy developments.

An example of using data to promote complex systems change is the Permanence and Care Excellence (PACE) programme¹⁰, implemented between 2014 – 2020, which responded to concerns that delayed decision-making about a child’s permanent home could mean poorer life chances. Its aim was to reduce what was identified as ‘drift and delay’ in permanence planning and prevent the long periods of waiting and uncertainty. At the heart of this objective was ensuring that, after a thorough assessment of a child’s unmet needs, permanence decision-making would progress with minimum disruption to enable every looked after child to have a safe and secure home to grow up in. The programme provided direct support to local authorities and partner agencies, with the aim of enabling more effective and efficient decision making and identifying and sharing good practice.

CELCIS supported local areas to use quality improvement methodology to understand how the current systems were operating and to test new ways of working to build evidence that these changes were in fact improvements to their systems. These improvements would in turn improve decision-making and outcomes for children. The quality improvement methodology used was shown to be effective in this area, and fitted with the Scottish Government's wider strategy for public service reform. Data measurement was an integral and pivotal part of the improvement process, and was used to track each child on their journey to physical, emotional and legal permanence allowing

¹⁰ <https://www.celcis.org/our-work/key-areas/permanence/pace-homepage/pace-timelines-why>

local learning to support the process of change. Data was critical to evaluate and guide improvement.

Historical Abuse and Redress

Work on historical childhood abuse in care in Scotland has been ongoing since the early 2000s, when Scotland's First Minister, Jack McConnell offered a full and sincere apology to those that suffered abuse in care in Scotland, following a petition by survivors of abuse in care requesting an inquiry.¹¹

In 2013, the Scottish Human Rights Commission established an InterAction¹² on the Historical Abuse of Children in Care. The InterAction brought together victims and survivors of abuse in care, agencies that have provided residential or foster care for children, faith-based organisations, the Scottish Government, and professionals currently involved in the care and protection of children. Following extensive discussions, the InterAction produced an Action Plan on Justice for Victims of Historic Abuse of Children in Care¹³, which set out commitments to address the acknowledgement of, and accountability for, the historical abuse of children in care, including achieving effective apologies, access to justice, effective remedies and reparation.

The Scottish Government set out commitments to address the Action Plan in 2014. These included the development of a national Survivor Support Fund, commemoration, effective apologies and an Apology Law, work on civil justice and the time bar, and a consistent approach to investigating cases of historical child abuse. Later that year, it announced the intention to hold a Public Inquiry into Historical Child Abuse. It also made a commitment to consult with survivors and relevant organisations on the terms of reference of the Public Inquiry and the attributes of a chair or panel. Extensive consultations were carried out as part of this process, through a variety of tools, which allowed for contributions about the Public Inquiry and the Survivor Support Fund from survivors and other relevant organisations. The consultation and a range of other evidence was considered to determine relevant issues in relation to the Public Inquiry into Historical Child Abuse and the other InterAction Action Plan commitments made by Scottish Government¹⁴.

Legislation to establish a Redress Scheme for survivors of historical child abuse in care in Scotland to apply for financial payments was passed by the Scottish Parliament in 2021. An independent body will be set up to administer the scheme. The intention behind the new legislation is to provide tangible recognition of the harm caused to those who were abused as children in relevant residential care settings in Scotland before 1 December 2004.

Key services, policy, and legislation that are a result of this work include:

¹¹ Hendrick, A. Hawthorn, M. (2012) [National Confidential Forum for Adult Survivors of Childhood Abuse in Care: Scoping Project on Children in Care in Scotland, 1930 - 2005](#). CELCIS: Glasgow

¹² An InterAction involves everyone affected by an issue coming together to share views and find practical steps forward that promote human rights. In Scotland, an InterAction process was established to develop an Action Plan on Justice and Remedies for survivors of historical child abuse. For more information, see the Scottish Human Rights Commission, <https://www.scottishhumanrights.com>

¹³ SHRC InterAction on Historic Abuse of Children in Care Action Plan on Justice for Victims of Historic Abuse of Children in Care. Available at: <https://www.celcis.org/files/6615/9649/4700/7.ii-Action-Plan-on-Historic-Abuse-of-Children-in-Care-Nov-2013.pdf>

¹⁴ Hendrick, A. Shaw, J. (2015) [Consultation on the Public Inquiry into Historical Child Abuse in Scotland and other Scottish Government Commitments to Survivors of Historical Child Abuse](#) CELCIS: Glasgow

- Publication of an Action Plan on Justice for victims of historic abuse of children in care in November 2014¹⁵
- The introduction of the National Confidential Forum (NCF) for survivors in 2014¹⁶ and Future Pathways, a national survivor support agency¹⁷
- The Limitation (Scotland) (Childhood Abuse) Act 2017¹⁸
- Securing Scottish Government's commitment to the statutory Financial Redress Scheme in October 2018¹⁹
- Development and implementation of the Advance Payment Scheme for elderly and terminally ill survivors of childhood abuse in care in April 2019²⁰
- The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021²¹
- Ongoing development of the statutory financial redress scheme for survivors of childhood abuse in care, which is anticipated to launch by end December 2021.

For further information, please contact:

Miriana Giraldi

International Associate

miriana.giraldi@strath.ac.uk

Joanne McMeeking

Head of Improving Care Experiences

Joanne.mcmeeking@strath.ac.uk

¹⁵ CELCIS (2021). The SHRC InterAction. [Online]. Glasgow: CELCIS. Available at <https://www.celcis.org/our-work/key-areas/historical-abuse/financial-redress/interaction-process/>

¹⁶ National Confidential Forum (2017). What is the National Confidential Forum? [Online]. Available at: <https://www.nationalconfidentialforum.org.uk/>

¹⁷ Future Pathways (n.d.). Future Pathways – How we help. [Online]. Available at: <https://future-pathways.co.uk/how-we-help/>

¹⁸ The Limitation (Scotland) (Childhood Abuse) Act 2017 lifted the three-year time-bar on claiming damages for historic child abuse and sets out the circumstances for cases to be raised again when they were originally struck out because of time-bar.

¹⁹ Scottish Government (2018, October). Financial Redress for Survivors of Child Abuse In-Care. [Online]. Available at:

<https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2018/10/financial-redress-for-survivors-of-child-abuse-in-care-information-note/documents/information-note-october-2018/information-note-october-2018/govscot%3Adocument/Financial%2BRedress%2B-%2BPublic%2BInformation%2BNote%2B-%2BNovember%2B2018.pdf>

²⁰ Scottish Government (2019, April). Financial redress for survivors of historical child abuse in care. Information Note 2. [Online]. Available from:

https://www.celcis.org/files/8215/5627/0237/Launch_of_Advance_Payment_Scheme_Information_Note_-_25_April_2019.pdf

²¹ Scottish Government (2021, 11 March). Redress for Survivors, available from: <https://www.gov.scot/news/redress-for-survivors/>