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# Scotland's care system for children and young people: subject profile 2025 update

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This subject profile provides an introduction to the care system for children and young people in Scotland. It gives an overview of policy issues, recent developments and legislation in these areas. It has been designed as a resource for MSPs and their staff to help answer constituent queries.



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# Introduction

This subject profile provides an introduction to the care system for children and young people in Scotland. It gives an overview of policy issues, recent developments and legislation in these areas. It has been designed as a resource for MSPs and their staff to help answer constituent queries. The [Centre for Excellence for Children's Care and Protection \(CELCIS\)](#) contributed valuable information and insight to inform this work.

Where families and carers experience difficulties in providing for the wellbeing needs of children in their care, they may require specialist support. In such circumstances, children and their families could be impacted by trauma; abuse and neglect; complex issues such as disability and additional support needs; or the illness of a parent or carer. The local authority may need to take on some legal responsibility, and where this is the case, children become what is known in legal terms as 'looked after'. Sometimes these wider local authority responsibilities to meet the wellbeing needs of children in their care are referred to as the 'care system'.<sup>1</sup>

The 'care system' describes a complex landscape; in the final report of the 2020 [Independent Care Review](#), it is described as:

“ ... a labyrinth of legislation, policy and practice reflective of how rules and systems have evolved over decades, often in response to changes the system requires. It does not reflect the needs of Scotland's children or their journeys into adulthood.<sup>2</sup> ”

Local authorities have a general duty under section 12 of the [Social Work \(Scotland\) Act 1968](#) to promote social welfare. Section 17 of the [Children \(Scotland\) Act 1995](#) sets out a general duty for local authorities to safeguard and promote the welfare of children looked after by them. Section 17(6) sets out the definition of a looked after child<sup>3</sup>. Section 22 of the Act provides a general duty to safeguard and promote the welfare of children in need in their area.

Where a child is believed to be at risk of abuse or neglect, a child protection planning meeting may be held to determine risk. Where a child is found to be at risk of significant harm, their name will be placed on the local authority's child protection register (CPR) and they will have a Child Protection Plan.

The CPR is a list of children and young people in a local authority area who have been assessed as being at risk of significant harm<sup>4</sup>. The [National Guidance for Child Protection in Scotland](#) sets out the multi-agency responsibilities in relation to identifying, assessing and managing risk to children. This non-statutory guidance sets out how agencies should work together with parents, families and communities to protect children from abuse and neglect.<sup>5</sup> A child on the CPR is not considered looked after.

The process of a child becoming looked after can happen through Scotland's [children's hearings system](#), through the Scottish courts<sup>1</sup>, or via a [Section 25](#) order in cases where parents do not object or are not present.<sup>6</sup>

Children who are formally looked after can live in different arrangements such as:

- [at home](#), where a child continues to live with their parents or carers under a

[Compulsory Supervision Order \(CSO\)](#) granted [by a children's hearing](#) - this specific arrangement does not exist in the rest of the UK

- in [kinship care](#), with relatives or close family friends
- in [foster care](#)
- with [potential adopters](#)
- in a [residential house or school](#)
- in a [secure care setting](#).

Further information about the placement types listed above, the children's hearing system and orders such as CSOs can be found in the '[Care arrangements](#)' section of this briefing. Some children may only experience one of these arrangements, but some will experience different arrangements at different times in their childhood.

The Scottish Government's Children's Social Work Statistics Scotland is published annually and is the main source of data on the number of children in Scotland who are looked after or on the child protection register (CPR).

The latest [child protection statistics](#) show that, as at 31 July 2023, there were 2,094 children on the CPR - this is a 4% increase since 2022 and a 21% decrease since 2013. The publication notes that the 2023 figure is "similar to what it was back in 2000 (2,049) and 2001 (2,001)." <sup>7</sup>

The latest [statistics for looked after children](#) found that, at 31 July 2023, there were 12,206 looked after children in Scotland. 20% of these children were placed at home and 80% away from home. <sup>8</sup> The publication notes that this figure is the lowest it has been since 2006, however CELCIS has described the figures as "only an outline drawing", missing the details needed for complete understanding around factors such as unmet need. <sup>9</sup>

**Please note**, while the Independent Care Review and The Promise note children and young people prefer the term 'care experienced' to describe their circumstances, the term 'looked after' has a particular meaning in law. Therefore, this briefing uses the term 'care experienced' where possible, but 'looked after' is used in relation to the relevant legislation and policy. The legal term of 'care leaver' is also used in relation to relevant legislation. A care leaver is defined in law as a young person who ceased to be looked after on, or at any time after, their 16th birthday.

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# Care system reform

Children's social work services are currently going through a period of reform. This began with the Independent Care Review, commissioned in February 2017 to carry out a 'root and branch review' of the care system. A key purpose of the review was to look at how Scotland might address the inequality of outcomes care experienced people face in many areas of their lives, such as health and education.

People with experience of the care system represented half of the review group's co-chairs and working group members. During the lifetime of the review, the views of over 5,500 care experienced children and adults, as well as parents, carers and the care workforce, were listened to.

The review findings were published in February 2020<sup>10</sup>. The main findings were set out in [The Promise](#)<sup>11</sup>, and accompanying reports examined different aspects of the care system<sup>12</sup>. The Promise gives a vision for a Scotland where, by 2030, all children grow up loved, safe and respected with effective support reducing the need for children to go into care. This vision is built on five foundations:

- **Voice:** Children must be listened to and involved in decisions about their care.
- **Family:** Children feel loved and safe in their families and families are given the support they need.
- **Care:** Children must not be separated from their brothers and sisters wherever possible. Legislation to help siblings in care stay together has since come into force in July 2021.<sup>13</sup>
- **People:** Care experienced children must be supported to develop relationships.
- **Scaffolding:** Children, families and the workforce must be supported by an accountable system that provides help and support when required.

The Scottish Government [accepted the recommendations of the review in February 2020](#).

Following publication of the recommendations, [The Promise Scotland](#) was set up by Ministers as an independent organisation to oversee change. Its goal is to enable Scotland to 'keep the promise' to care experienced children and young people by 2030. In addition, the Oversight Board was set up to review progress.

The Promise Scotland does not hold statutory powers or responsibilities; its role is to oversee, drive and support change. It works with organisations and individuals all over Scotland to help others deliver change for care experienced children and young people.

In a [written answer published in March 2021](#)<sup>14</sup>, the then Minister for Children and Young People, Maree Todd MSP, stated that the role of The Promise Scotland is to:

“... help drive forward the change needed for Scotland to keep "The Promise".”

Scottish Parliament, 2021<sup>14</sup>

The Minister also described the role of the Scottish Government to:

“ ... underpin the work that needs to be done to make the real transformation to developing policy and focus on what matters, the people, the children and families most in need of support.”

Scottish Parliament, 2021<sup>14</sup>

Ministerial responsibility for The Promise currently sits with the Minister for Children, Young People and The Promise, Natalie Don-Innes MSP, reporting to the First Minister.

A Cabinet sub-committee on The Promise was set up to monitor progress and decision making in relation to the Promise across a number of portfolios. Sub-committee members are: the First Minister; the Minister for Children, Young People and The Promise; the Cabinet Secretary for Finance and Local Government; the Cabinet Secretary for Justice and Home Affairs; the Minister for Drugs and Alcohol Policy; the Minister for Equalities; and the Minister for Social Care, Mental Wellbeing and Sport.<sup>15</sup>

## Implementing The Promise

The Promise Scotland set out initial steps toward implementing The Promise in [Plan 21-24](#)<sup>16</sup>, and next steps up to 2030 are set out in [Plan 24-30](#)<sup>17</sup>.

This is described by the Promise Scotland as a 'route map' to keep the Promise by 2030. It is organised around the [five foundations of The Promise](#), with Independent Care Review recommendations grouped by theme under each foundation.

**Figure 1: Five foundations of The Promise**

Voice	Family	Care	People	Scaffolding
<ul style="list-style-type: none"> <li>• Participation/engagement</li> <li>• Listening</li> <li>• Documenting decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Poverty</li> <li>• Universal family support</li> <li>• Intensive family support</li> </ul>	<ul style="list-style-type: none"> <li>• Decision making</li> <li>• Advocacy</li> <li>• Relationships</li> <li>• Stability</li> <li>• Where children live</li> <li>• Moving on/lifelong support</li> </ul>	<ul style="list-style-type: none"> <li>• Leadership</li> <li>• Recruitment/retention</li> <li>• Rules, processes/culture</li> <li>• Workforce support</li> </ul>	<ul style="list-style-type: none"> <li>• Rights</li> <li>• Data/information</li> <li>• Money/commissioning</li> <li>• Legislation</li> <li>• Scrutiny/inspection</li> <li>• Governance</li> <li>• Education</li> <li>• Justice</li> <li>• Health</li> </ul>

The Promise Scotland, 2024<sup>18</sup>

The Promise Scotland intends to keep track of progress using the [Plan 24-30 website](#), with a webpage on each theme looking at the situation in 2024, what needs to happen by 2030, and how this will happen. For each theme, a particular area to focus on has also been identified for this plan. These are:<sup>19</sup>

- **Voice:** Focus on accurate record keeping that shows evidence of views sought and informed decision making. Respect the right to access care records.
- **Family:** Focus on support for families at an earlier stage, enabling more babies and infants to remain at home.
- **Care:** Focus on unaccompanied asylum seeking children and young people.



- **People:** Focus on the recruitment and retention crisis in the children's care system workforce.
- **Scaffolding:** Focus on ensuring funding is clearly aligned to need and impact.

The Promise Progress Framework, developed by COSLA, the Scottish Government and The Promise Scotland, was launched in December 2024. The framework is intended to build understanding of progress toward keeping the Promise by bringing together data. <sup>20</sup>

The [Keeping the Promise Implementation Plan](#) <sup>21</sup>, published in March 2022, gave an overview of Scottish Government actions and commitments toward keeping the Promise. In September 2024, the [Keeping the Promise to our children, young people and families: progress update](#) <sup>22</sup> was published. This provides a summary of [progress so far](#) and outlines next steps.

The Oversight Board has published progress reports monitoring change. [Report One](#) was published in May 2022. <sup>23</sup> [Report Two](#) was published in June 2023, and it concluded that delivering Plan 21-24 commitments would be challenging due to “worsening circumstances for many and the current pace of change” <sup>24</sup>. [Report Three](#) was published in February 2025 and found “issues impacting the workforce and whole family support have meant the promise is not halfway to being kept” but concluded that it could still be kept, given progress so far and continuing commitments made. <sup>25</sup>

## Key actions so far

Actions toward keeping the Promise and implementing reforms set out in the Independent Care Review include:

- Legislation to help siblings in care stay together came into force in July 2021 <sup>13</sup>. This is set out in section 13 of the [Children \(Scotland\) Act 2020](#).
- [The introduction of a Scottish Recommended Rate](#) of allowance for foster and kinship carers was announced in August 2023. <sup>26</sup> This followed the 2018 [National review of care allowances](#). <sup>27</sup>
- The [Children \(Care and Justice\) \(Scotland\) Bill](#) was passed in Parliament in March 2024, and [became an Act](#) after receiving Royal Assent in June 2024. The overall aim of the legislation is to introduce trauma-informed, age-appropriate support for children involved with care and justice services.
  - The Act's provisions to end the detention of under 18s in Young Offenders Institutions (YOIs) and to treat children detained in secure accommodation as 'looked after children' for the purposes of accessing support came into force in August 2024. <sup>28</sup> Once fully enacted, the legislation will raise the age of referral to children's hearings from 16 to 18.
- The [2021-22 Programme for Government \(PfG\)](#) committed to a [Whole Family Wellbeing Fund](#) of £500 million over Session 6 of the Parliament. <sup>29</sup> This is aimed at tackling issues faced by families before they need crisis intervention. The PfG also

stated that, from 2030, at least 5% of community-based health and social care spend will be focused on preventative measures. The overall intention of this preventative spend is to reduce the number of children being taken into care.

- In a [September 2024 written answer](#)<sup>30</sup>, the Minister for Children, Young People and The Promise, Natalie Don-Innes MSP, stated that £110 million of Whole Family Wellbeing Funding (WFWF) has been invested since 2022. Of this, £96 million was provided to Children's Services Planning Partnerships (CSPPs); £1.6 million for national support for local transformation work; and £13.1 million for 12 system change projects across Scottish Government policy areas.
- £50 million WFWF has been allocated for 2025-26.<sup>31</sup>
- The Hearings System Working Group chaired by Sheriff David Mackie [published recommendations for the redesign of the children's hearings system](#)<sup>32</sup> in June 2023. The [Scottish Government response](#)<sup>33</sup> accepted a number of recommendations but did not accept proposals to introduce salaried professional Chairs and remunerated Panel Members. A [Scottish Government consultation on redesign proposals](#)<sup>34</sup> launched in July 2024 and an [analysis of responses](#) was published in February 2025.<sup>35</sup>
- The [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) came into force on 16 July 2024. The Act protects children's rights in law, giving them access to legal redress if their rights are breached in relation to laws originally made in the Scottish Parliament. While the Bill originally passed in 2021 intended for all relevant UK and Scottish Parliament legislation to be covered, the Supreme Court ruled<sup>36</sup> this was not within the powers of the Scottish Parliament. An amended Bill was introduced in 2023<sup>37</sup>, which became an Act on 16 January 2024 and came into force on 16 July 2024.<sup>38</sup>
- Scottish Government consultations on [moving on from care into adulthood](#), the [future of foster care](#) and [developing a universal definition of 'care experience'](#) were launched in 2024.
  - The [consultation analysis of moving on from care](#) was published in January 2025. Suggestions from respondents included: the need to involve the young person and their family in planning; supporting young people to develop lifeskills; provision of advocacy; extension of eligibility for continuing care and aftercare to other groups of care experienced young people; greater need for awareness around rights and corporate responsibilities; lifelong support; and the importance of trauma informed multi-agency collaboration.<sup>39</sup>
- The Scottish Government's [Keeping the Promise Implementation Plan](#)<sup>21</sup> was published in March 2022. [Keeping the Promise to our children, young people and families: progress update](#)<sup>22</sup> was published in September 2024. This provides a summary of [progress so far](#) and outlines next steps.

A Promise Bill, containing legislation necessary for the implementation of various elements of The Promise, is expected to be introduced before the end of this parliamentary session. The Bill has the potential to be wide-ranging, covering changes to the Children's Hearings



System, governance, inspection and accountability surrounding the care system, as well as a range of other areas. The Scottish Parliament will face the challenging task of scrutinising this legislation within a short time frame if the Bill is introduced ahead of the 2026 election.

Prior to the [Scottish Government's decision not to go ahead with a National Care Service \(NCS\)](#), Minister for Social Care, Mental Wellbeing and Sport Maree Todd MSP, had stated her intention to introduce amendments at Stage 2 of the National Care Service (Scotland) Bill (NCS Bill) that would have given Scottish Ministers a regulation-making power to delegate certain children's services to integration authorities across Scotland.<sup>40</sup> As the NCS is not progressing, this change will not go ahead. Further background about the NCS Bill in relation to children's services can be found in the [2022 edition of this SPICe briefing](#).<sup>41</sup>

The Scottish Government's Stage 2 amendments to the NCS Bill also included provisions for the creation of a National Social Work Agency (NSWA), intended to provide "leadership, oversight and support"<sup>40</sup>. During Stage 1 scrutiny of the NCS Bill, [questions were raised](#) about the roles and remits of the NSWA and how they might impact on existing bodies such as the Scottish Social Services Council (SSSC) and the Care Inspectorate.<sup>42</sup>

The Scottish Government intends to go ahead with the creation of a NSWA. In a Written Answer following the announcement that the NCS would not progress, the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, stated:

“ We have agreed to establish a National Social Work Agency to support the social work profession. This will be an executive agency of the Scottish Government, and will be established by spring 2026.<sup>43</sup> ”

# Key legislation

Legislative and policy measures for the care and protection of children in Scotland are complex. They involve a number of different systems including local authorities; health boards; courts and the children's hearing system; the voluntary sector; and the police.<sup>44</sup>

The main legislative and regulatory measures in Scotland are listed below:

- The **Social Work (Scotland) Act 1968** is the framework for social work intervention in Scotland.<sup>44</sup> This Act introduced a general duty for local authorities to safeguard and promote the welfare of children in need in their area through appropriate service provision, and established Scotland's children's hearing system.
- The **Foster Children (Scotland) Act 1984** sets out local authority duties in relation to children in private foster care arrangements arranged by the child's parent.
- The **Foster Children (Private Fostering) (Scotland) Regulations 1985** sets out regulations for private fostering arrangements. In this scenario, a parent is making arrangements to have their child cared for by someone who is not an approved **foster** or **kinship carer**.
- The **Children (Scotland) Act 1995** is the primary piece of legislation relating to the care, welfare, protection and rights of children and young people in Scotland. It provides a definition of 'looked after' and also makes provision on a range of areas including: local authority duties to children looked after by them; local authority service provision for children and families in need of support; the Children's Hearings System; and **parental responsibilities and rights** of birth parents regarding how their child is brought up and situations in which these rights may be removed.
  - Amendments to the 1995 Act via the **Children (Scotland) Act 2020** introduced duties for the local authority, when making decisions about the care of a looked after child, to take the views of their siblings into account; and to promote direct contact and personal relations between a looked after child and any of their siblings.
- **The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003** sets out local authorities' legal duties to prepare young people for leaving care, providing for advice and assistance for eligible care leavers - known as 'aftercare' - for the first time.
- The **Adoption and Children (Scotland) Act 2007** modernised adoption, introducing **Scotland's Adoption Register** to help match children placed for adoption with families. It also gives local authorities the ability to apply to court for '**Permanence Orders**', vesting **parental responsibilities and rights** in the authority or being shared between the authority and parents and/or carers. This Act also gives unmarried couples the right to adopt.
- The **Adoption Agencies (Scotland) Regulations 2009** make provision for functions under the 2007 Act, including adoption panels, assessment of prospective adopters, application for permanence orders, placement for adoption, steps that must be taken where it is decided adoption is in a child's best interest, and, where continued contact

with birth families is recommended, a duty for adoption panels to produce a written report of the reasons why this is in the best interests of the child.

- The **Adoption Support Services and Allowances (Scotland) Regulations 2009** make provision for local authorities to provide adoption support services, including provisions to pay allowances. The regulations also set out who can request assessment for support and how a local authority may carry this out.
- The **Looked After Children (Scotland) Regulations 2009** underpin many processes around the care of looked after children, making provision for the duties and functions of local authorities in relation to children looked after by them and revoking and amending previous regulations. They make provision for the care planning process; children 'looked after at home'; kinship care; foster care; and residential care.
  - These regulations were **amended in 2021**, introducing a duty for local authorities to place siblings together in care, as long as this is in their best interests. If it is not in their best interests to be placed together, brothers and sisters must be placed in homes near to one another.
- The **Education (Additional Support for Learning) (Scotland) Act 2009** amended the **2004 Act of the same name** to clarify that all looked after children are automatically considered to have additional support for learning needs, and that they must be assessed to determine whether or not they require a Co-ordinated Support Plan. Under the 2004 Act, local authorities and other agencies have a duty to assess, monitor and support any child who requires additional support in order to engage in education.
- The **Children's Hearings (Scotland) Act 2011** fundamentally overhauled legislation on the children's hearings system and sought to strengthen children's rights in the context of that system.
- The **Secure Accommodation (Scotland) Regulations 2013** make provision for the use and management of secure care accommodation for children. These include the conditions under which a looked after child may be placed in secure care, and the duties and actions of local authorities and others when such an action is taken.
- The **Children and Young People (Scotland) Act 2014** introduced a range of significant reforms across children's services. These include 600 hours of free early learning and child care for looked after two year olds and **corporate parenting duties** for certain publicly funded individuals and organisations to meet the needs of care experienced people. The Act also: sets out local authority duties to provide services and support for children at risk of becoming 'looked after' and **assistance for kinship carers**; extends the age of eligibility for **aftercare support** for young people leaving care to 26; and introduces 'continuing care', providing care leavers up to the age of 21 with the opportunity to continue with accommodation and support they were provided with immediately before they ceased to be looked after.
- The **United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024** came into force on 16 July 2024. The Act protects children's rights in law, giving them access to legal redress if their rights are breached in relation to laws originally made in the Scottish Parliament. The Act came into force on 16 July 2024.<sup>38</sup>

- The **Children (Care and Justice) Act 2024** introduces changes in relation to the care of children involved in the care system and the criminal justice system. Provisions in the Act ending the placement of under 18s in Young Offenders Institutions (YOIs) were enacted in September 2024.<sup>45</sup> Once fully enacted, the Act will:
  - raise the age of referral to the Children's Hearings System from 16 to 18
  - make changes to the prevention and protection measures available within the system
  - give children in secure accommodation 'looked after' status for the purposes of accessing support
  - introduce additional regulation and recognition for cross-border placements where children from outwith Scotland are placed in secure accommodation here
  - introduce new standards and reporting procedures for secure transportation to and from secure care
  - establish a single point of contact for victims.

It will also repeal the Named Person and Child's Plan provisions in the Children and Young People (Scotland) Act 2014, which were never enacted.

# Getting it Right for Every Child (GIRFEC)

Getting it Right for Every Child (GIRFEC) is the Scottish Government's children's rights based, national approach to promoting, supporting and safeguarding the wellbeing of all children and young people. It underpins the public sector approach to all children's services, providing a universal framework for assessment of a child's needs, identification of challenges and consideration of support they may need. The Scottish Government's refreshed GIRFEC policy statement was published in 2022. It states:

“ [GIRFEC] provides a consistent framework, shared language and common understanding of wellbeing. GIRFEC puts the child or young person at the heart and helps children and young people get the right support from the right people at the right time. <sup>46</sup> ”

Developed in pathfinder areas since 2006, GIRFEC was implemented as a national approach to supporting children's wellbeing across Scotland in 2011. The [Children and Young People \(Scotland\) Act 2014](#) (the 2014 Act) gave certain elements - such as children's services planning provisions - a statutory basis. <sup>46</sup>

GIRFEC aims to bring a child-centred approach to children's service provision and decision making, reflecting the principles of the [United Nations Convention on the Rights of the Child](#). The refreshed approach is based around the key values and principles <sup>46</sup> :

- placing the child or young person and their family at the heart, and promoting choice, with full participation in decisions that affect them
- working together with families to enable a rights-respecting, strengths-based, inclusive approach
- understanding wellbeing as being about all areas of life including family, community and society
- valuing difference and ensuring everyone is treated fairly
- considering and addressing inequalities
- providing support for children, young people and families when they need it, until things get better, to help them to reach their full potential
- everyone working together in local areas and across Scotland to improve outcomes for children, young people and their families.

In terms of the care system, GIRFEC principles mean that decisions about a child or young person should be based on an understanding of needs and wellbeing, with co-ordination between services and a focus on early intervention. Each child in need of extra support should have a [child's plan](#):

“ A personalised child’s plan is developed when those working with the child or young person and family identify that a child or young person needs a range of extra support planned, delivered and co-ordinated. The child’s plan should reflect the child or young person’s voice and explain what should be improved for the child or young person, the actions to be taken and why the plan has been created. <sup>46</sup> ”

Multi-agency activity is co-ordinated by a Lead Professional; for children in need of care and protection, this is usually a social worker.

Child's plans are non-statutory. While the [2014 Act](#) included provisions that, if enacted, would have required a child's plan for children with wellbeing needs where intervention to meet those needs was necessary, section 32 of the [Children \(Care and Justice\) Scotland Act 2024](#) (the 2024 Act) will repeal these provisions once it is in force.

The 2014 Act also contained provision for every child in Scotland to have a 'named person' as a first point of contact for children and families seeking information or advice about a child or young person's wellbeing. Following a [successful legal challenge](#), the provisions were never brought into force and section 32 of the [2024 Act](#) will also repeal them once it is in force. However, as a key element of the national GIRFEC approach, in many local authorities children under 18 do have a non-statutory key point of contact known as the 'named person'. For pre-school children, the named person will usually be a health visitor and for school-aged children it will likely be a senior, deputy or head teacher.

GIRFEC also incorporates national wellbeing indicators known as SHANARRI. These indicators consider whether a child is **Safe**; **Healthy**; **Achieving**; **Nurtured**; **Active**; **Respected**; **Responsible and Included**. <sup>47</sup> Any assessment of a child or young person's wellbeing should be founded on these indicators in order to understand what the young person needs to thrive. <sup>46</sup>



# Care arrangements

As mentioned in the [introduction to this briefing](#), children in care can live in a number of different arrangements, sometimes referred to as 'placements'. This section of the briefing explains:

- further information about these arrangements
- the legislation underpinning them
- the support available for children and their parents or carers, where applicable.

All children who are looked after by local authorities should have a care plan - or child's plan - in place. This is set out in the **Looked After Children (Scotland) Regulations 2009**. This should be developed with involvement from:

- the child (whose views should be heard and taken into account wherever possible)
- their parents
- their prospective and current carers.

Care plans should reflect an assessment of the needs of the child and how these needs will be met. They should include information about:

- where the child will live
- arrangements for family contact time with birth parents, siblings and wider family members
- plans for moving back with parents or finding permanence in another way (for example, in kinship care, permanent fostering or adoption).<sup>3</sup>

The process of a child becoming looked after can happen through Scotland's children's hearings system, through the Scottish courts<sup>1</sup>, or via a [Section 25](#) arrangement in cases where parents do not object or are not present<sup>6</sup>.

The children's hearings system was introduced by the [Social Work \(Scotland\) Act 1968](#) and updated by the [Children \(Scotland\) Act 1995](#) and the [Children's Hearings \(Scotland\) Act 2011](#).

Children's Hearings Scotland (CHS) recruits, trains and supports volunteer panel members across Scotland. Panel members are the tribunal decision makers. Any decision to refer a child to a children's hearing is made by the [Scottish Children's Reporters Administration \(SCRA\)](#) and it is SCRA that schedules hearings, sends out invitations to attend and prepares paperwork that is considered at each hearing.

Any person (private individuals, teachers, social workers, health professionals, police etc.) may refer a child to SCRA, who will consider whether grounds exist for a hearing. Section 67 of the [Children's Hearing \(Scotland\) Act 2011](#) sets out the grounds on which a Reporter may refer a child to a children's hearing.

The statement of grounds is the principal legal basis for decision making by a children's hearing. This is drafted after a Reporter decides that one of the grounds set out in section 67 of the Children's Hearings (Scotland) Act 2011 applies and may be necessary for a compulsory supervision order to be made in respect of the child.

The statement of grounds sets out which of the section 67 grounds the reporter believes applies in relation to the child and the facts on which that belief is based – these are known as the 'supporting facts'. A sheriff court is generally only involved if grounds of referral are in dispute or not understood, a child protection or child assessment order is required, or there is an appeal against a decision of a hearing.<sup>48</sup>

Children's hearings can decide whether or not to make a [Compulsory Supervision Order \(CSO\)](#). Introduced by the Children's Hearings (Scotland) Act 2011, CSOs can contain conditions of residence stating where the child must live, in addition to other conditions such as contact with family members. A CSO is a legal order that means the local authority is responsible for implementing the child's care plan and promoting their welfare.<sup>49</sup> Becoming subject to a CSO is one of the ways in which child can become looked after.

Where a hearing defers a decision regarding a child not already subject to a CSO, an Interim Compulsory Supervision Order (ICSO) may be made. The Scottish Government's 2013 [Children's hearings training resource manual](#) states an ICSO may be made where the panel is satisfied it is:

“ ... necessary as a **matter of urgency** for the protection, guidance, treatment or control of the child.<sup>50</sup> ”

## Section 25 arrangements

[Section 25 of the Children \(Scotland\) Act 1995](#) places a duty on local authorities to provide accommodation and support for children and young people where it is considered necessary and their birth parents do not object to this or are not present.<sup>6</sup> Parents can request that their child is returned to their care at any point, but must give two weeks written notice after the arrangement has been in place for more than six months.

Section 25 arrangements are sometimes referred to as 'voluntary arrangements', but the 'consent' of a parent is not required. Research from CELCIS published in 2024 found that, for many parents experiencing Section 25s, they did not feel 'voluntary' and parents were not fully aware of their rights.<sup>6</sup> Based on this research, CELCIS has suggested these arrangements should be referred to as 'non-compulsory' rather than voluntary.

Use of Section 25 arrangements has increased by 53% over the past decade. In 2013, 2,035 children were looked after under Section 25 arrangements; for 2023 the number of children was 3,123.<sup>51</sup>

CELCIS's 2024 research found that Section 25 arrangements were used at the first legal reason for 71% of children and young people who became cared for away from the parental home in 2021-2022.<sup>6</sup>

## Looked after at home

Children who are looked after at home continue to live with their parents or carers with compulsory social work involvement. A child becomes 'looked after at home' when placed under a [Compulsory Supervision Order](#) with no condition of residence by a children's hearing. This may be done because:

- a child's situation requires monitoring without having to remove them from their parents'/carers' home
- a child has returned home after being looked after away from home and supervision is needed to minimise risks.<sup>52</sup>

The Centre for Excellence for Children's Care and Protection (CELCIS) states that a child looked after at home:

“... may have experienced neglect, physical, mental or emotional abuse, or may live with parents with substance abuse issues, or poor parenting skills. They continue to live at home because it is hoped that by providing support to child and family, the problems affecting the child can be resolved, without the need to separate them from their family.”

CELCIS, 2021<sup>1</sup>

The number of children looked after at home has reduced in recent years. The latest Scottish Government [Children's social work statistics](#) published in April 2024 shows that in **2013 there were 4,762 children looked after at home; by 2023 the number had fallen to 2,466**. Children looked after at home represented 20% of all looked after children in 2023.<sup>8</sup>

## Kinship care

Kinship care is where a child who cannot be cared for by their parents is looked after by extended family or someone known to them. Kinship care arrangements can arise as a result of an emergency (for example, a child's parent being taken into hospital; or where parents are no longer able to care for their children). Kinship care is seen as an important way to provide children with stability from family or close family friends when parents cannot provide this themselves.<sup>53</sup>

Section 10(2) of the **Looked After Children (Scotland) Regulations 2009** defines a kinship carer as “a person who is related to the child” or “a person who is known to the child and with whom the child has a pre-existing relationship”.

Children living in kinship care are not always considered to be looked after (i.e. where a local authority has some legal responsibility for the child). Some kinship care arrangements are entirely private with no legal arrangement and no local authority involvement.<sup>54</sup>

When a local authority is placing a child with a kinship carer, under section 10(3) of the

**Looked After Children (Scotland) Regulations 2009**, they must undertake an assessment of the kinship carer's suitability to care for the child. The assessment of kinship care arrangements is undertaken by local social work teams. There is no statutory requirement for the review or re-approval of kinship carers, although some local authorities do have a process of assessment and/or kinship care panels in place.

## Types of kinship care arrangements

### Looked after children in kinship care

The **Looked After Children (Scotland) Regulations 2009** give local authorities powers to assess and approve a kinship carer for a child considered 'looked after' under section 17(6) of the [Children \(Scotland\) Act 1995](#). This definition includes those looked after under [Section 25 arrangements](#), and has been amended in recent years to add:

- looked after children subject to [Compulsory Supervision Orders \(CSOs\)](#). A CSO may stipulate a child must reside with kinship carers.
- the introduction of [Permanence Orders](#), which have the potential for parental rights to be shared between kinship carers, parents and the local authority. This was introduced under section 80 of the [Adoption and Children \(Scotland\) Act 2007](#).<sup>53</sup>

### Children who are not looked after by a local authority

Not all children in kinship care are considered looked after by a local authority. Where a child in kinship care is not looked after, their arrangement may have come about in one of the following ways:

- Via the [Children and Young People \(Scotland\) Act 2014](#), which introduced the provision of 'kinship care orders'. This describes existing court orders made under [section 11 of the Children \(Scotland\) Act 1995](#) granting parental responsibilities and rights to a qualifying person or residence orders regulating where a child lives.<sup>55</sup>
  - If the child was looked after previously, **once a kinship care order has been granted a child is no longer considered looked after** by a local authority.<sup>56</sup>
- Some children may be living in a completely private arrangement, with no involvement from the local authority, no court orders and no granting of guardianship. Where a child is being cared for by a close relative (through blood, marriage or civil partnership), there is no legal requirement for the state to be notified.<sup>53</sup>

The number of looked after children in kinship care each year has been broadly consistent over the decade. The latest Scottish Government [Children's social work statistics](#)<sup>8</sup> shows that in 2013, there were 4,183 looked after children in kinship care and by **2023 there were 4,154 children**. In 2023, kinship care was the most common placement type, with 34% of looked after children being placed in such an arrangement.<sup>8</sup>

While data on the number of non-looked after children in kinship care is not collected, the [Scottish Centre for Administrative Data Research and CELCIS's October 2024 report Growing Up In Kinship Care](#) estimates there were around 8,720 children in 'semi-formal' or 'informal' kinship care in Scotland in 2011.<sup>57</sup>

## Local authority assistance for kinship carers

Eligibility for local authority assistance and financial support largely depends on the legal basis of and details behind the kinship care arrangement in place. Kinship carers of looked after children will generally qualify for support, while kinship carers of non-looked after children only qualify in certain circumstances, as explored later in this section.

Local authorities can make financial payments to eligible kinship carers in the ways listed below.<sup>58</sup>

- Under section 22 of the [Children \(Scotland\) Act 1995](#), which sets out the local authority's duty to safeguard and promote welfare of children 'in need'. Payments made under this power are often short-term or occasional, but regular payments can also be made.
- Section 50 of the [Children Act 1975](#), which enables a local authority to make payments for a child under 18 and living with someone other than their parent, however this provision does not place a duty on the local authority to make payment.
- Regulation 33 of the [Looked After Children \(Scotland\) Regulations 2009](#), and section 110 of the [Adoption and Children \(Scotland\) Act 2007](#), which allows the local authority to pay an allowance to kinship carers of looked after children.

The [Children and Young People \(Scotland\) Act 2014](#) (the 2014 Act) introduced a duty for local authorities to provide assistance to kinship carers where a kinship care order is in process or in place and the child was previously looked after, at risk of becoming looked after, or placed with local authority involvement. Following the passage of the 2014 Act, the [Kinship Care Assistance \(Scotland\) Order 2016](#) came into force on 1 April 2016.

Section 4 of the Order details 'assistance' may include support, information or financial assistance. Scottish Government's guidance on kinship care assistance under the 2014 Act was updated in 2024. It states:

“ The ethos behind kinship care is to ensure that a child who can no longer remain with their birth parents is able to be supported within their extended family, wherever possible. This ethos should be at the forefront of practitioners’ minds during the process of assessing whether a child or carer may be entitled to kinship care assistance.”

Scottish Government, 2024<sup>59</sup>

The [Programme for Government 2015-16](#) announced that from October 2015, eligible kinship care families would receive the same kinship care allowance as foster carers. In 2018, the National Review of Care Allowances recommended a Scottish Recommended Allowance (SRA) should be established "to achieve consistency for children and young people in foster and kinship care".<sup>60</sup>

The Scottish Government announced the introduction of SRA in August 2023, with weekly allowance rates of<sup>61</sup> :

- 0 to 4 year-olds: £168.31
- 5 to 10 year-olds: £195.81
- 11 to 15 year-olds: £195.81
- 16-years-old and over: £268.41

Fostering and kinship care organisations have called for the payments to rise annually with inflation.<sup>62</sup> The Scottish Government has confirmed that rates will not rise for 2024-25, stating SRA will be reviewed to assess its effectiveness.<sup>63</sup>

### **Other financial support**

Kinship carers may also be eligible for other benefits such as Child Tax Credit, [Best Start Grant](#), [Scottish Child Payment](#) and Child Benefit. [Citizens Advice Scotland notes](#) the rules around kinship care and benefits are complicated, and there are different entitlements for kinship carers of looked after and non-looked after children<sup>64</sup> .

The Child Poverty Action Group (CPAG) in Scotland's '[Kinship care and benefits - the essentials](#)' states that, for kinship carers of non-looked after children, there are no special rules when it comes to claiming benefits and they may be eligible for child benefit, the child element of Universal Credit and other means-tested benefits such as housing benefit. However, the 'two-child limit' does still apply and any local authority payments received may affect benefits.<sup>65</sup>

For kinship carers of looked-after children, CPAG in Scotland states that where a local authority is making payments under regulation 33 of the [Looked After Children \(Scotland\) Regulations 2009](#), this will likely impact on child benefit entitlement. Kinship carers cannot claim the child element of universal credit for looked after children. Where carers are still on 'legacy benefits' such as Child Tax Credit, working tax credit, housing benefit, income support or jobseeker's allowance, benefit eligibility will depend on the legislation the local authority is making payments under.<sup>65</sup>

Further information on benefit entitlement for kinship carers can be found on the [Citizens Advice Scotland website](#). [Citizens Advice Bureaus](#) can also provide information and advice



to kinship carers.

CPAG in Scotland's ['Kinship carers and universal credit'](#) provides further information about the rules around universal credit. Information on 'legacy benefits' can be found in chapter 7 of CPAG in Scotland's [Children's Handbook Scotland 2024-25](#).

The UK Government's [Kinship Carers in the workplace: Guidance for Employers](#) sets out information about what becoming a kinship carer means, available support entitlements and how internal policies can be adapted to include kinship carers. Kinship carers are not eligible for paid employment leave.

## Foster care

When children cannot be cared for by their birth parent(s) or by a kinship carer, they may be placed in foster care. Often this is a temporary arrangement, but it can become permanent under some circumstances.

A [review of foster care](#) was published in 2013, and its recommendations led to the introduction of

- a [national learning and development framework for foster carers](#)
- national agreed definitions for foster care placements
- a foster care placement limit of three unrelated children (with exemptions in certain emergency circumstances).

The placement limit was introduced by the **Looked After Children (Scotland) Amendment Regulations 2014**, which inserted **Regulation 27A to the Looked After Children (Scotland) Regulations 2009**.

A recommendation to develop a national foster carer database was not taken forward after exploration.<sup>66</sup>

Types of foster placement are set out in the [Scottish Government's Glossary of Placement Descriptions](#):<sup>67</sup>

- **Permanent:** Secured by a [Permanence Order \(PO\)](#), as introduced by the [Adoption and Children \(Scotland\) Act 2007](#). This means the child will not return home to family. A local authority applies for a PO through the courts and, if granted, this can allow foster carers to have some or all of the parental rights and responsibilities for the child. The child's views should be considered prior to granting a PO and consent of children over 12 is required in most circumstances.<sup>68</sup>
- **Long-term:** A placement in place for over 24 months, not secured by a PO.
- **Interim:** A placement in place for under 24 months and not secured by a PO. Children in interim placements may be working towards moving back to live with birth family, towards a PO with a different foster carer, or towards an Adoption Order or PO with their current carer.
- **Emergency:** An unplanned placement made where there are immediate concerns for

a child's safety and wellbeing. Must be reviewed within three days and cannot extend beyond 12 weeks.

- **Short break:** This placement gives children in special circumstances and their carers short breaks, sometimes for therapeutic services.

Some children may also be in private foster care arrangements. Private fostering is where a parent makes an arrangement to have their child cared for by someone who is not an approved foster or kinship carer, guardian of the child or close relative of the child.<sup>69</sup>

Foster care is the second most common accommodation type for looked after children, with foster care representing 32% of accommodation placements for looked after children. The Scottish Government's latest [Children's Social Work Statistics 2022-23 – Looked After Children](#) published in April 2024 shows that on 31 July 2023 there were 3,927 children in foster care placements.

The number of children in foster care has been falling in recent years. The Care Inspectorate's [2023-24 Fostering and adoption statistical bulletin](#) reported an 8% fall in existing foster care households between 2022 and 2023. In addition, the number of households approved was lower than in any of the four previous years.<sup>70</sup>

## The foster care process: approval and placement

Adults in Scotland can apply to be approved as a foster carer through their local authority or an independent provider registered with the [Care Inspectorate](#).<sup>71</sup> Approval of prospective foster carers takes around six months, with applicants assessed by a fostering panel.<sup>72</sup> If the applicant has a partner, they will also be assessed.

Fostering panels must have at least six members and the panel must also have access to a medical adviser and legal advice. Often legal advice is provided by the local authority's own legal services. Fostering panels consider:

- whether foster carer applicants should be approved
- whether existing foster carers continue to be suitable for approval
- the suitability of foster carers to look after a particular child
- the maximum number of children a foster carer may have in their care.<sup>47</sup>

The panel then makes a recommendation to the local authority as to whether the applicant should be approved. The local authority has the final say over approval.<sup>47</sup> Following this, foster carers are reviewed once a year, and their approval can be withdrawn following review.<sup>72</sup>

A child can only be placed with an approved foster carer. The **Looked After Children (Scotland) Regulations 2009** sets out local authority duties and responsibilities around the placement of a child with a foster carer. The placement must be in the best interests of the child; placement with family members must have first been considered. The foster carer must also have an agreement with the local authority, outlining support and training

to be given and contact arrangements for the child and their family.<sup>72</sup>

Like all children, children in foster care have the right to have their views heard. Depending on age and understanding, children should know who within the local authority is responsible for them and should be able to speak to this person if they need to.<sup>72</sup>

## Foster care allowances

In 2018, the National Review of Care Allowances recommended a Scottish Recommended Allowance (SRA) should be established "to achieve consistency for children and young people in foster and kinship care".<sup>60</sup>

The Scottish Government announced the introduction of SRA in August 2023, with weekly allowance rates of<sup>61</sup> :

- 0 to 4 year-olds: £168.31
- 5 to 10 year-olds: £195.81
- 11 to 15 year-olds: £195.81
- 16-years-old and over: £268.41

Fostering and kinship care organisations have called for the payments to rise annually with inflation.<sup>62</sup> The Scottish Government has confirmed that rates will not rise for 2024-25, stating SRA will be reviewed to assess its effectiveness.<sup>63</sup>

Prior to the introduction of SRA, local authorities in Scotland had discretion to set their own rate of allowances. A national minimum rate of allowance was introduced in England in 2007, and Northern Ireland and Wales introduced them soon after.<sup>73</sup>

## Adoption

Adoption is a legal process offering permanence to looked after children placed with approved adopters. Once adopted, a child is no longer considered 'looked after'. The adopters have [parental responsibilities and rights](#) for the child, and the child is treated in law as if they were born to the adoptive parents.

The [Adoption and Children \(Scotland\) Act 2007](#) ('the 2007 Act') brought about significant changes to adoption legislation. The Act sought to "improve, modernise and extend" adoption in Scotland, "providing greater stability and permanence for children who cannot live at home".<sup>74</sup> Prior to this, the law relating to adoption was found in the Adoption (Scotland) Act 1978, the Children (Scotland) Act 1995 and the Adoption (Intercountry Aspects) Act 1999.<sup>75</sup> The 2007 Act was passed following a 2005 review of adoption law which recommended modernisation.<sup>47</sup>

Changes made by the 2007 Act:

- made it possible for unmarried couples to adopt jointly
- placed a duty on local authorities to provide adoption support services
- gave those directly affected by an adoption (the child, parents and adoptive parents) the right to pre-adoption services and post-adoption services where there is assessed need
- introduced [permanence orders](#) to allow parental responsibilities to pass to the local authority, giving them the right to decide where the child lives.

The [Children and Young People \(Scotland\) Act 2014](#) (the 2014 Act) gave [Scotland's Adoption Register](#), which had existed in practice since 2011, a legal basis. This placed duties on Scottish Ministers to maintain it and on adoption agencies to provide the relevant information. It also introduced a duty for adoption agencies to provide information about children seeking adoption placement and approved adopters. Since April 2016, all adoption agencies are required to use this to refer children and approved adopters within three months of approval. The register is intended to provide:

“... opportunities for children to be matched with families across Scotland, if they cannot be matched locally.”

Scottish Parliament, 2017<sup>76</sup>

The Scottish Government published the [Supporting adoption: vision and priorities statement](#) in November 2024. This sets out five priority areas for adoption in the context of achieving The Promise. These are <sup>77</sup> :

- recognising adoption as the best permanence for some children
- best practice to support timely adoption and good transitions
- best practice to support family time and life journey work
- consistent and comprehensive post-adoption support
- providing lifelong support for adoptees.

The Scottish Government's latest [Children's social work statistics for Looked After Children](#), published in April 2024, shows that while the **number of children being adopted** fell from 298 in 2013 to 214 in 2023, the overall percentage of looked after children being adopted rose from 6% to 7%.

The statistics also show the **number of children living with prospective adopters** has been falling year on year. There were **243 children living with prospective adopters in 2013, by 2023 there were 151 children**, representing 1% of looked after children.

The Care Inspectorate published [Fostering and adoption statistics 2019-20 to 2023-24](#) in September 2024. This publication includes statistics on households being approved for adoption. It finds that, while there have been year on year fluctuations, the overall trend for approvals is downward. **In 2023, there were 199 new adoptive households approved**, the lowest figure in the past five years.

## The adoption process

Anyone in Scotland over the age of 21 can apply to adopt a child through a local council adoption agency or a third sector registered adoption agency. Agencies cannot charge a fee, though prospective adopters may have to pay for their own police check.<sup>78</sup>

During the application process, a registered adoption agency will assess suitability to adopt. This is often called a home study. This can include checking medical history, criminal history, finances and the home of the prospective adopter or adopters. During this time, an allocated social worker will carry out assessments. They may meet with prospective adopters' friends and family as part of the process. The home study can take several months.<sup>78</sup>

Once the assessment is complete, the agency's adoption panel provides a recommendation about whether to approve the application. The adoption panel is appointed by the local authority or registered adoption service, and must comprise at least six panel members, a medical adviser and a legal adviser.<sup>3</sup>

Once an adopter is approved, the agency will then seek to match them with a child. This process can take up to a year. [Scotland's Adoption Register](#) is used by adoption agencies to refer children and approved adopters within three months of approval.

Once a child is placed with an adopter, an application is made to court for an **adoption order**. This is a court order giving legal responsibilities and rights for the child to their adopters, making them the child's legal parents and giving [parental responsibilities and rights \(PRRs\)](#) to them. Once an adoption order has been granted, the child's birth parents no longer have PRRs for the child and the child is no longer considered to be looked after.

Section 40 (1) of the Adoption and Children (Scotland) Act 2007 states:

“ An adopted person is to be treated in law as if born as the child of the adopters or adopter.”

legislation.gov, 2007<sup>79</sup>

Other points to note about the court process for adoption are listed below<sup>80</sup> :

- an adoption order cannot be granted until a child has lived with the prospective adopters for at least 13 weeks and is at least 19 weeks old
- the court's main concern is ensuring the welfare of the child throughout their life
- having reviewed available assessments and reports, the court must decide it is better for the child that an adoption order is made than not made in order to grant one
- birth parents must either agree to the order being made or the court may decide officially that the consent of the birth parents is not needed.

## Adoption support and leave

The [Adoption and Children \(Scotland\) Act 2007](#) (the 2007 Act) sets out local authority duties to provide support for adoptive families. Local authorities have a duty to prepare and publish a plan for the provision of adoption services in their area.

Local authorities also have a duty to assess the support needs of those affected by an adoption, if requested to do so by a person eligible for such an assessment. The 2007 Act sets out the following groups as eligible for assessment of support needs:

- children who have or may be adopted
- parents and guardians of children
- natural parents of children
- people who cared for the child prior to the completion of adoption
- siblings
- natural grandparents
- former guardians
- people who may adopt and people who have adopted a child
- the children of those who have or may adopt.

The **Adoption Support Services and Allowances (Scotland) Regulations 2009** set out that:

- an assessment request from an eligible person must be started within four weeks of receipt
- the person must be informed of the decision about whether or not to provide support.

The 2007 Act states that adoption support services include the provision of:

- counselling
- guidance
- any other assistance the local authority considers appropriate to the circumstances of a case.<sup>3</sup>

Adoption pay and leave is administered by [HMRC](#) in much the same way as maternity leave and pay. Key points and sources of further information are outlined in the following sections on adoption leave, adoption pay and adoption allowances.

### Adoption leave

Adopters who have been matched with a child are entitled to **adoption leave of up to 52 weeks**. The first 26 weeks is known as 'Ordinary Adoption Leave' and the remaining 26 weeks is known as 'Additional Adoption Leave'.<sup>81</sup>



Only one person in a couple can take adoption leave; the other partner can take [paternity leave](#). The right to adoption leave applies to adopters who have been matched with a child through an adoption agency, or have been officially notified of an overseas adoption.<sup>82</sup>

Adoption leave can start up to 14 days before the child starts living with their adopters in the case of UK adoptions or when the child arrives in the UK for overseas adoptions.<sup>81</sup>

## Adoption pay

**Statutory Adoption Pay is paid for up to 39 weeks** to eligible employees. To qualify, employees must have been continuously employed for at least 26 weeks, give the required notice and provide proof of adoption.

Payments are made in the same way as wages, with tax and National Insurance deducted. Payments are broken down as follows<sup>83</sup> :

- 90% of average weekly earnings for the first six weeks
- £184.03 or 90% of average weekly earnings (whichever is lower) for the next 33 weeks.

Employers can offer more than the statutory amounts through a company scheme for adoption leave and pay.<sup>83</sup>

Further information about adoption leave and pay is available on the [Citizens Advice Scotland website](#).

## Adoption allowances

Local authorities have the ability to award adoption allowances in certain circumstances, as set out in the **Adoption Support Services and Allowances (Scotland) Regulations 2009**.

Scottish Government guidance states that allowances may be agreed either to support and enable the placement of a child or to support the continuation of an adoption after the placement has been made. This means that an assessment for adoption allowance can take place even where the need for it only emerges after the child has been placed.<sup>3</sup> For example, adopters might request an assessment where the special care needs of a child only become known following the adoption. The guidance states this is in recognition that:

“ ... many children placed do not have diagnosed medical needs or disabilities but have ‘emotional or behavioural difficulties or the continuing consequences of past abuse or neglect’.”

Scottish Government, 2011<sup>3</sup>

Local authorities may also pay an allowance 'where it is necessary to ensure that the adoptive parent can look after the adoptive child'<sup>84</sup> . This gives local authorities discretion to pay an allowance in situations where further financial support might enable a family to access forms of support needed to help make the adoption work. For example, an

allowance may enable a parent to spend more time at home with their child without losing income.<sup>3</sup>

## Residential child care

Residential children's homes are another care setting that children and young people may be placed in via [children's hearing](#) or on a voluntary or emergency basis. Residential children's homes can be run by local authorities or the voluntary or independent sector. There is variation in terms of provider, purpose and size of residential care home.

Residential placements are regulated by the **Looked After Children (Scotland) Regulations 2009**, and the **Residential Establishments – Child Care (Scotland) Regulations 1996**. These regulations set out the responsibilities of the establishments. These include ensuring the child receives "adequate and efficient"<sup>85</sup> education and their welfare is safeguarded and promoted. Local authorities are also required to assess whether the proposed residential placement is suitable for the child.<sup>3</sup>

The Scottish Government's latest [Children's Social Work Statistics for Looked After Children](#) published in April 2024 shows that in 2023, children in residential care represented 11% of all looked after children.

While the number of children in residential care has been on a downward trend, there was a **slight increase from 1,262 in 2022 to 1,320 in 2023**.

A decade prior in 2013 there were 1,466 children in residential care, representing 9% of looked after children.

## Secure care

Children and young people who, for a variety of reasons reflecting the childhood adversity they have faced, pose a risk to themselves or others in the community may be placed in secure care. This is a locked environment where children's freedom is restricted while they are provided with intensive support in order:

“... to help these highly vulnerable children re-engage and move forward positively in their communities.”

Scottish Government, 2021<sup>86</sup>

In addition to the responsibilities set out for providers of residential placements, as covered in the '[Residential care](#)' section of this briefing, secure care is also regulated by the **Secure Accommodation (Scotland) Regulations 2013**. These regulations make provision for the use and management of secure care accommodation for children. These include the conditions under which a looked after child may be placed in secure care, and the duties and actions of local authorities and others when such an action is taken.

The [Children \(Care and Justice\) \(Scotland\) Act 2024](#) (the 2024 Act) ended the detention of children under the age of 18 in young offenders institutions (YOIs). The Scottish

Government announced on 2 September 2024 that, following the enactment of these provisions, all under 18s previously in YOIs had been moved to secure care settings.<sup>45</sup> The Act also provides that all children detained in secure accommodation are to be treated as looked after children.

Provisions contained in Part 4 of the Act, once enacted, will change the definition of 'secure accommodation' to include the provision of trauma-informed care, education and support.

The 2024 Act also contains regulation-making powers for Scottish Ministers on cross-border placements; secure transportation; extending placements up to the age of 19 in certain cases; and the framework for approval of secure accommodation. Part of the criteria for approval of a service will be that Ministers must be satisfied that a child who has caused harm will not be placed in the same residential establishment as a child they have harmed.<sup>87</sup>

In October 2020, the Scottish Government published new guidance on secure care. The [Secure Care: Pathway and Standards](#) sets out support that should be provided to children before, during and after a placement in secure care.<sup>88</sup> The guidance reflects the principles of the Scottish Government's Health and Social Care Standards and was written in consultation with young people with experience of secure care. It aims to ensure the rights of children and young people are respected and their experiences and outcomes improved.<sup>89</sup>

The Children and Young People's Centre for Justice (CYCJ) led the Scottish Government commissioned [Reimagining secure care project](#), looking at what is needed to support secure care services to meet the needs of children detained there. The final report was published in September 2024. It identified the need for interconnected support provided by multi-disciplinary teams in adaptive and home-like environments with minimal placement moves.<sup>90</sup>

The Scottish Government's latest [Children's social work statistics](#) published in April 2024 shows that of the 1,320 children and young people in residential accommodation in 2023, 48 of these were in secure accommodation.

[Figures for 2023-24](#) were published in February 2025. These show an average of 60 children in secure care over the reporting year 1 August 2023 - 31 July 2024. There were 48 children from within Scotland and 12 children from outside of Scotland - a rise of 30% and a decrease of 45% respectively on 2022-23.<sup>91</sup>

The fall in cross-border placements follows the signing of a Memorandum of Understanding between the UK, Welsh and Northern Ireland Governments seeking to ensure children from elsewhere in the UK are only placed in secure care in Scotland in exceptional circumstances.<sup>92</sup>

## Support for care leavers

In recent years there has been growing recognition of the need to ensure continued

support for young people leaving care.

The Scottish Government's 2013 [Staying Put Scotland guidance](#) sets out:

“ In order to meet our aspirations for looked after children and young people we therefore need to ensure that they are encouraged, enabled and empowered to remain in stable and secure care settings until they are ready to move on into adulthood; and that the same supports, standards and expectations are applied to them in throughcare and aftercare. <sup>93</sup> ”

The [Children and Young People \(Scotland\) Act 2014 \(the 2014 Act\)](#) amended the legal definition of 'care leaver' to be a young person who ceased to be looked after on, or at anytime after, their 16th birthday. <sup>94</sup> This definition does not include those who have been looked after but left care before their 16th birthday. These care experienced young people often miss out on support as they are not legally defined as 'care leavers'. <sup>95</sup>

The 2014 Act also amended the [Children \(Scotland\) Act 1995](#) to extend the age that care leavers can **continue to receive support from local authorities from 21 to 26 years**. Local authorities were previously required to provide support to 17 and 18 year old care leavers and had discretion to provide support to 19 and 20 year olds. <sup>96</sup>

The 2014 Act introduced 'continuing care', which places a duty on local authorities to provide care leavers previously looked after away from home with continuation of supportive, stable and continued relationships. <sup>97</sup> Extending care placements is associated with better educational and employment outcomes for care leavers. <sup>98</sup> Section 67 (4) of the 2014 Act defines continuing care as:

“ ... the same accommodation and other assistance as was being provided for the person by the authority ... immediately before the person ceased to be looked after.”

legislation.gov.uk, 2014<sup>99</sup>

The only circumstances in which a care leaver is not provided with continuing care is where the care would "significantly adversely affect the welfare of the young person" <sup>98</sup> . This must be evidenced in a welfare assessment prior to leaving care. Local authorities have a duty to carry out a welfare assessment for all prospective care leavers within a reasonable time before a young person leaves care. This must take the young person's views into account, and can also seek views from family, caregivers, accommodation providers and school, college or university providers.

Areas the welfare assessment should cover include:

- the young person's interests and wellbeing
- family relationships
- caring responsibilities
- friends and relationships
- general health
- school

- plans for study, training or work
- accommodation arrangements and options for the future
- knowledge of the young person's rights and legal entitlements.<sup>98</sup>

Following the welfare assessment, the local authority must provide a decision regarding the young person's continuing care in writing.<sup>98</sup>

The local authority's duty to provide continuing care ends when:

- a care leaver decides to leave their accommodation placement
- the carer cannot or will not continue to provide the placement
- the local authority decides the placement would have a negative impact on the person's welfare.<sup>100</sup>

A care leaver in continuing care cannot receive aftercare support at the same time.<sup>97</sup>

'Aftercare' provisions in the 2014 Act set out that any young person leaving care on or after their 16th birthday is no longer a looked after child and will be eligible for aftercare support services. Local authorities have a duty to provide these to young people under the age of 19. In addition, any care leaver aged 25 and younger can request assistance from their local authority, and the local authority must assess their support needs.<sup>97</sup> Examples of aftercare support can include helping a young person find accommodation; education and employment opportunities; and/or financial support.

The Children (Care and Justice) (Scotland) Act 2024 includes provision that, once enacted, will mean any child who has been remanded or sentenced and is now staying in secure care rather than a Young Offenders' Institution will be considered as a 'looked after' child if they are not already.<sup>95</sup> They would not be entitled to Continuing Care provisions unless moving to foster, kinship or residential care after secure care, but will have entitlements to Aftercare support. The ongoing resource implications of this must be monitored.

## Support in further and higher education

Care experienced students can apply for a non-repayable bursary to support them through college or university. The Care Experienced Bursary was introduced in 2017/18, at an initial rate of £7,625 per year for students in Higher Education (HE) and £4,185 for Further Education (FE) students.<sup>101</sup>

Following the independent review of student support in 2017, Scottish Ministers announced the bursary would rise to £8,100 per year for HE and FE students from Academic Year (AY) 2018/19.<sup>102</sup> From 2024-25, this rose to £9,000 for FE and HE students<sup>103</sup>, and HE students also have the option of taking out a £2,400 student loan in addition to this<sup>104</sup>. There is now no age limit on eligibility for the bursary, as the upper limit of age 26 was removed from AY 2020-21.<sup>105</sup>

FE students can apply for the bursary through their college. Students in HE courses can

apply through the [Student Awards Agency for Scotland](#).

Under section 30 of the 1995 Act, local authorities can provide discretionary financial support to care leavers between the ages of 16 and 25 to help them with the costs associated with education and training.<sup>97</sup> Receipt of the Care Experienced Bursary should not impact on the eligibility of a care leaver to receive this support. The Scottish Government clarified in a Policy Note from the then Deputy First Minister, John Swinney MSP, to Local Authority Chief Executives that:

“ ... the policy intention of the [Care Experienced Bursary] was not to replace any other financial support given to this group, rather to add value to the existing support provided by Local Authorities ...”

Scottish Government, 2020<sup>102</sup>

## **Unaccompanied asylum seeking children**

Unaccompanied asylum seeking children (UAS children) in Scotland are considered care experienced. While asylum is a matter reserved to the UK Government, UAS children are the responsibility of the local authority area in which they are found. UAS children become looked after under Section 25 of the Children (Scotland) Act 1995, and are then entitled to the supports available under this legislation for looked after children.<sup>106</sup>

The Scottish Government is working with COSLA and the UK Government on a National Transfer Scheme to enable the safe transfer for UAS children between local authorities.

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