

Future of Foster Care

Response from Together (Scottish Alliance for Children's Rights)

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 600 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.

Introduction

"I love my foster carer. She does lots of fun stuff with us and takes us to lots of different places like park and bowling. Wherever she ever takes us is fun with us together. Children need love, and foster carers need to be very kind and welcoming. They need to know how to have fun. My favourite thing about my foster carer is she is always kind. I love my foster home and have a lovely big garden. I don't ever want to leave my foster carer. I have drew a picture of me and my foster carer at the park." (Lightning, age 7)*



Together (Scottish Alliance for Children's Rights) welcomes the opportunity to comment on Scottish Government's proposals on the future of foster care. Foster carers play a significant role in supporting babies, children and young people to grow up in an atmosphere of happiness, love, and understanding. They make an incredible contribution to the lives of children whose rights are most at risk, providing stability, emotional support and enabling them to remain living in their local area – in contact with their friends, family and remaining at the same school.

Our response offers a children’s human rights perspective. It draws on key articles of the UN Convention on the Rights of the Child (UNCRC), evidence from children and young people - including our recent [State of Children’s Rights Report](#) - as well as from Together’s members. Our response reflects on recommendations and guidance from the UN Committee on the Rights of the Child (UN Committee) including [Concluding Observations](#) and [General Comments](#), as well as the UN Guidelines on Alternative Care (UN Guidelines) and [2021 UN Day of General Discussion on children in alternative care](#).

The UNCRC provides that children should be supported to remain with their families unless this is contrary to their best interests (Article 9). Where separation is necessary, children are entitled to “special protection and assistance” from the government (Article 20). The UN Committee and the UN Guidelines are clear that home-based settings within the child’s own community are preferred, with foster carers recognised as supporting a child to maintain ties with their family, community and cultural group.¹

The [UNCRC \(Incorporation\) \(Scotland\) Act 2024](#) reinforces these obligations, requiring Scottish Government and public authorities to act compatibly with the UNCRC (Section 6) and to interpret its requirements in line with authoritative sources such as the UN Committee’s General Comments and Concluding Observations (Section 4). This includes key international standards like the UN Guidelines on Alternative Care, which provide detailed guidance on how the UNCRC should be implemented for children who require alternative care, ensuring their rights are upheld in policy and practice.

Due to limited capacity, we have only answered those questions most relevant to our expertise. Where questions relate to more specific aspects of the proposals, we refer Scottish Government to evidence from our members working closely with Care Experienced children and foster families including Who Cares? Scotland, the Fostering Network and CELCIS.

Our vision

1. What are your views on our vision for foster care?

Together welcomes Scottish Government’s vision for a system that is tailored to meet the needs of each child, and underpinned by listening to their voices, upholding their rights and ensuring they feel safe, loved and respected.² Framing the new approach in terms of children’s rights is significant, as it reflects the Scottish Government’s commitment under the *UNCRC (Incorporation) (Scotland) Act 2024*. While broader concepts such as ‘wellbeing’ can be helpful, an approach strongly framed in terms of children’s rights provides a clear legal foundation and coherence across policies. Moreover, delivering on children’s rights is what ultimately drives better outcomes for babies, children and young people - including improved wellbeing.

We welcome Scottish Government’s commitment to build upon the positive experiences shared by people who have spent time in foster care.³ Children and young people who took part in our recent State of Children’s Rights Report told us about the deep connection they have with their

¹ A/RES/64/142: Paras: 119 and 158.

² Scottish Government (2024). *Future of Foster Care: consultation paper*, p11. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

³ Scottish Government (2024). *Future of Foster Care: consultation paper*, p11. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

foster carers, valuing the loving, stable environment they provide.⁴ Their stories add further weight to what children and young people shared during the Independent Care Review: children need foster carers who treat them as *family*, rather than ‘a job’.

“My family is really important. I love spending time with my mum and my brothers. I like telling them all about what I’ve been doing at my foster carer’s house. I really love animals. I live with my cat, and she makes me very happy. I really like playing outside too. One of my favourite things is riding my bike. Every child needs someone to listen to them. I have lots of people who care about me. They listen to me, and that’s really important. I’ve been living with my foster carer for years. I’m really happy here. I feel safe and loved, and I love my foster carer very much. She is very important to me. We have a big garden at home, and I spend a lot of time playing in it. I think every child should have somewhere where they can run around and play.” (Anna, age 6)*

“I live in [village] with my sister and foster carers. I wake up and go see my sister and after I go get breakfast. Then I go out to play with friends for most of the day. I only come back for dinner and lunch. I love being outdoors - that is who I am. I go out in all weathers. I don’t care if I am cold, wet or too warm – I love going out. When I go back in, I go for a nice warm shower. Then I turn on the TV and fall asleep. I think it’s important for children to live close to their friends and get to be out in nature.” (Garfield, age 12)*

We note Scottish Government’s commitment for a system that “*embeds...maintaining family time*”. Contact with birth parents will be positive for many children and, as such, a commitment to facilitate this is welcome. Yet care should be taken to ensure that all decisions seek to uphold the best interests of the child (Article 3, Article 9). In some cases, direct contact with family members will not be in their best interests. It is essential that Scottish Government’s approach is based on the unique situation of each child.

It is imperative that Scottish Government delivers upon its vision and fully embeds a children’s rights approach in all aspects of reforms – including the processes through which decisions are reached and their implementation. A children’s rights approach also requires support ‘around the child’, including for their birth family and foster carer. This consultation takes place against a backdrop of a national crisis in foster care recruitment and retention. This can only be addressed if current and prospective foster carers feel confident that they will have access to the support they need. Some of the current proposals involve significant changes to foster carers’ role. If these are progressed then they must be met with significant additional support. If this is not provided, then there is a risk of compounding existing recruitment and retention challenges which will ultimately negatively impact children’s rights. While we welcome Scottish Government’s commitment to provide ongoing support for caregivers to develop their skills and knowledge, we urge the provision of wider support such as access to counselling services, in line with the UN Guidelines on Alternative Care.⁵ These issues are discussed further in later answers.

⁴ Together (2024). State of Children’s Rights Report. https://www.togetherscotland.org.uk/media/3800/socrr2024_final.pdf [Date accessed: 24.01.25].

⁵ A/RES/64/142: Paras: 120.

Flexible fostering approach

2. What are your views on the proposed flexible fostering approach?

Together welcomes Scottish Government's commitment to a tailored approach that responds to the specific needs of each child, rather than a 'one-size-fits-all' approach.⁶ We echo calls from our members about the need to avoid 'blanket approaches' which could arise if systems are built on assumptions about what works best for children and families.⁷ We welcome Scottish Government's recognition that "[n]ot all elements of the flexible fostering approach will be appropriate for every child".

We know there are challenges with the current system and it is crucial that the new approach seeks to address these. Evidence shared by our members in previous State of Children's Rights Reports has highlighted issues such as lack of foster placements able to accommodate sibling groups;⁸ insufficient financial and other support for foster carers;⁹ and households de-registering at a faster rate than new foster carers are signing up.¹⁰

In 2023, the UN Committee made a range of recommendations to the UK and devolved governments, encouraging them to look to the UN Guidelines on Alternative Care. Many of these recommendations echo those made by children and young people through the Independent Care Review, and commitments Scottish Government has subsequently made through The Promise. Scottish Government should ensure all of these calls are fully embedded in the proposed reforms, including the UN Committee's recommendations around:

- **Resources and investment:** Invest in measures to prevent placement in alternative care, such as increased support at edges of care, including for babies and young children; allocate sufficient funds for family and community-based care options.¹¹
- **Best interests:** Ensure the principle of best interests of the child is consistently applied in all decisions impacting children, including placement in alternative care.¹²
- **Data:** Improve data collection and analysis regarding children in alternative care.¹³
- **Access to justice:** Ensure children have access to confidential, child-friendly and independent complaint mechanisms – including children in foster care.¹⁴
- **Non-discrimination:** Implement targeted policies and programmes to combat discrimination against children in alternative care.¹⁵
- **Right to life:** Ensure independent inquiries into unexpected deaths that occur of children in alternative care.¹⁶

⁶ Scottish Government (2024). *Future of Foster Care: consultation paper*, p12. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

⁷ CELCIS (2024). *Future of Foster Care: response*, pp2-3 https://www.celcis.org/application/files/9017/3877/1713/Response_from_CELCIS_to_the_Scottish_Governments_consultation_on_Future_of_Foster_Care.pdf [Date accessed: 24.01.25].

⁸ Together (2023). *State of Children's Rights Report*, p46. https://www.togetherscotland.org.uk/media/3266/socrr23_final.pdf [Date accessed: 24.01.25]. https://www.togetherscotland.org.uk/media/1767/together-loipr_final.pdf (p.21)

⁹ Together (2019). *State of Children's Rights Report*, pp76-77. https://www.togetherscotland.org.uk/media/1436/socrr_online_version.pdf [Date accessed: 24.01.25].

¹⁰ Together (2019). *State of Children's Rights Report*, p77. https://www.togetherscotland.org.uk/media/1436/socrr_online_version.pdf [Date accessed: 24.01.25].

¹¹ CRC/C/GBR/CO/6-7: Para: 38.

¹² CRC/C/GBR/CO/6-7: Para: 21(a).

¹³ CRC/C/GBR/CO/6-7: Para: 12(b).

¹⁴ CRC/C/GBR/CO/6-7: Para: 17(a).

¹⁵ CRC/C/GBR/CO/6-7: Para: 20(a).

¹⁶ CRC/C/GBR/CO/6-7: Para: 22(b).

- **Right to be heard:** Ensure *all* children are able to express their views and have these taken into account in all decisions that affect them. This includes views of younger children and disabled children, and decisions around care placements.¹⁷
- **Advocacy:** Provision of advocacy services as an opt-out rather than an opt-in service; with the aim of ensuring maintenance of contact with family members and communities.¹⁸
- **Combatting violence and abuse:** Develop measures to prevent violence against children in alternative care; investigate all cases of abuse and ill-treatment of children in alternative care, ensure adequate sanction of perpetrators and reparation for victims, and ensure expert support for child victims.¹⁹
- **Placement stability:** Prevent frequent or unnecessary transfers of children (such as upon placement breakdown); need for consistent support.²⁰
- **Strengthen support for care leavers:** Including by increasing funding, aimed at providing education, skills, housing and opportunities for independent living.²¹

We note Scottish Government's commitment to build upon good practice arising in Scotland and elsewhere.²² While this is positive, we note that reference is only made to practice in the rest of the UK. We would encourage the Scottish Government to look more broadly to international examples of promising practice – including those highlighted during the [UN Day of General Discussion on children in alternative care](#) and in *Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'*.²³

3. What are your views on the seven different elements in the flexible fostering approach?

Together supports a more flexible, relationship-based approach to fostering. As our members have highlighted, the current system often involves disruptive moves and some arrangements fail to reflect the child's journey.²⁴

We recognise that the seven proposed elements are an initial proposal and welcome Scottish Government's commitment to working with all stakeholders, including children and young people, to shape and implement them. Children's rights must be the 'golden thread' throughout, and foster carers need clear role expectations, along with enhanced training and support (financial, emotional and practical) to enable them to fulfil their role.

The UN Guidelines on Alternative Care emphasise the importance of robust support for foster carers before, during and after placements - including counselling, peer support, and a role in policy and practice development.²⁵ Some of the proposed changes significantly expand foster carers' current role. Notable examples include for foster carers to provide support and

¹⁷ CRC/C/GBR/CO/6-7: Para: 38.

¹⁸ CRC/C/GBR/CO/6-7: Para: 38.

¹⁹ CRC/C/GBR/CO/6-7: Paras: 30(c), 33(c) and 33(e).

²⁰ CRC/C/GBR/CO/6-7: Para: 38.

²¹ CRC/C/GBR/CO/6-7: Para: 38.

²² Scottish Government (2024). *Future of Foster Care: consultation paper*, pp11-12. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

²³ CELCIS (2012). *Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'*. <https://www.alternativecareguidelines.org/Portals/46/Moving-forward/Moving-Forward-implementing-the-guidelines-for-web1.pdf> [Date accessed: 24.01.25].

²⁴ CELCIS (2024). *Future of Foster Care: response*, p4. https://www.celcis.org/application/files/9017/3877/1713/Response_from_CELCIS_to_the_Scottish_Governments_consultation_on_Future_of_Foster_Care.pdf [Date accessed: 24.01.25].

²⁵ A/RES/64/142: Paras: 119-122.

mentoring for birth families, such as “*teaching practical support and advice, and modelling and teaching good parenting skills*”; the possibility for foster carers to ‘live in’ with the birth family to provide immediate support in times of crisis; or for both the child and their parent to live with the foster carer. While Scottish Government has cited research that suggests parents may build trust more easily with foster carers than social workers, this should not justify shifting responsibilities that rightly belong to social work. Nor should financial pressures on social work departments, or their own challenges around recruitment and retention of social workers, be used to justify a transfer of responsibility onto individual foster carers. Governments should use the maximum available resources available to them to realise children’s rights.²⁶ Children and young people who participated in our State of Children’s Rights Report also called on Scottish Government to do more to build trust between social work and families:

“Better education about the social work and how they help and work.”
(anonymous, supported by Circle)

We welcome Scottish Government’s commitment to enhanced training and support for foster carers and that any changes in role must be agreed and set out clearly in Foster Care Agreements.²⁷ Foster carers are already calling for more consistent support, and any role expansion must be reflected in a parallel increase in support. Without this, there is a risk of compounding existing challenges around recruitment and retention, particularly given Scottish Government’s recognition that there is an increase in children coming into foster care with complex needs and trauma.²⁸ Prospective and current foster carers need to feel confident that they will be supported before, during and after placements. If they don’t, then there is a risk that fewer people will take on this vital role.

4. What implications does a flexible fostering approach have for how fostering is funded and how foster carers are remunerated?

Not answered.

5. How can the Scottish Government, working with you, support the delivery of the flexible fostering approach?

Not answered.

Independent fostering agencies

6. What is the role of Independent Fostering Agencies (IFAs) in the future of fostering?

Not answered.

7. Should we require all IFAs to have charitable status?

Not answered.

8. Should we limit how much local authorities can pay to IFAs?

Not answered.

²⁶ Article 4 UNCRC.

²⁷ Scottish Government (2024). *Future of Foster Care: consultation paper*, pp13. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

²⁸ Scottish Government (2024). *Future of Foster Care: consultation paper*, p9. <https://consult.gov.scot/children-and-families/future-of-foster-care-consultation/> [Date accessed: 24.01.25].

9. Should IFAs be required to pay their foster carers the Scottish Recommended Allowance (SRA)?

Not answered.

10. What more could be done nationally to support local authorities when paying for placements from IFAs (including forecasting, market shaping and procurement)?

Not answered.

Recruitment of foster carers

11. What are your views on the recruitment 'offer' described in this section of the consultation document?

Not answered.

12. What more can the Scottish Government and local authorities do to recruit foster carers?

Not answered.

Retention of foster carers

Learning, development and practical support

13. What is your experience of the SSSC 'Standard for Foster Care' and do you find it helpful?

Not answered.

14. Should there be a new national learning framework for foster carers which could also be a pathway for continuous development?

We encourage Scottish Government to consider aligning and/or integrating any new learning framework for foster carers with the *Skills & Knowledge Framework for UNCRC Implementation*.

15. What more can the Scottish Government do to nationally support the learning and development of foster carers?

See statements in earlier answers.

16. What, if any, specific support might be needed to ensure that foster care in Scotland is attuned to the unique and specific needs of infants and very young children?

The UN Committee and UN Guidelines on Alternative Care are both clear that family-based care is more likely to produce positive outcomes for babies and young children.^{29 30} Governments are encouraged to invest in forms of care, such as fostering, that ensure security, continuity of care and affection, and the opportunity for young children to form long-term attachments to a specific carer.^{31 32} The UN Guidelines allow for limited exceptions on a short-term basis, for example to prevent the separation of siblings or in emergency situations.³³ CELCIS has produced a detailed handbook on implementing the UN Guidelines, with a specific chapter on the placement of children aged 0-3 years in family-based settings such as foster care. This chapter

²⁹ CRC/C/GC/7/Rev.1: Para: 36(d).

³⁰ A/RES/64/142: Paras: 87.

³¹ CRC/C/GC/7/Rev.1: Para: 36(d).

³² A/RES/64/142: Paras: 87.

³³ A/RES/64/142: Para: 22.

includes international examples of promising practice.³⁴ The handbook emphasises the need for sufficient resources for local services to support family-based placement for young children.

It is crucial that babies are recognised as rights holders who are capable of expressing their own preferences and making choices. CELCIS's handbook calls on governments to *“explore ways of communicating changes in care to young children in ways that are appropriate for their age and capacity”*. Foster carers and professionals around the child should be supported to understand babies' rights and how to support and interpret their communication so that decisions better reflect their needs.

In designing the methodology for our recent State of Children's Rights Report, we worked closely with partner organisations to gather stories from babies and very young children. This approach was based on observing babies' cues and reactions, and recognising these as forms of communication. Caregivers were supported to 'tune in' to their babies' communication by observing them during a sensory play session; what did their babies like and dislike? How had their baby communicated this? Caregivers were then supported to observe their babies' communication in other situations – such as reactions to their surroundings (home, public transport, parks, community spaces) or to certain activities (play, meeting new people, trying foods). Caregivers found the exercise helped them to tune into their babies' needs and preferences – helping to ensure these were taken into account in decisions.

We note that the babies involved in this engagement all had secure attachment with their caregivers. It will be important to ensure that there is support for the development of healthy attachment relationships between foster carers and the baby/young child to ensure they are comfortable and secure to fully express themselves.

17. What other practical support would help foster carers?

Not answered.

18. What, if any, additional learning and development would be needed for the 'flexible fostering' approach?

Not answered.

Financial support

19. How effective is the current financial model for foster carers?

See previous answers. Foster carers frequently highlight the need for increased financial and other support to enable them to fulfil their role.³⁵ Current allowances are not sufficient to cover the full costs of looking after foster children. We note that Independent Fostering Agencies are not required to pay their foster carer the Scottish Recommended Allowance and, like local authorities, there is no obligation to publish their fostering allowance rates. There is a need for greater transparency.

20. Do you think there should be national approach to fees for foster carers?

Not answered.

³⁴ CELCIS (2012). *Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'*. <https://www.alternativecareguidelines.org/Portals/46/Moving-forward/Moving-Forward-implementing-the-guidelines-for-web1.pdf> [Date accessed: 24.01.25].

³⁵ Together (2019). *State of Children's Rights Report*, pp76-77. https://www.togetherscotland.org.uk/media/1436/socrr_online_version.pdf [Date accessed: 24.01.25].

21. Do you think there should be a national approach to additional payments?

Not answered.

22. Should the financial model for foster carers include a retainer fee for when a foster carer does not have a child placed with them?

Not answered.

23. Do you think there should be a national approach for Continuing Care allowances and fees?

Not answered.

24. Would an enhanced framework of transparency with a legal requirement, for example, on local authorities and independent fostering agencies to publish foster care allowances assist foster carers and wider recruitment and retention?

Not answered.

Status, recognition and value

25. What are your views on the proposal for a national charter of support for foster carers?

Not answered.

26. What else could national government do to increase the value, status and recognition of foster carers?

Not answered.

Day-to-day decisions

27. Is the existing framework under which foster carers can make decisions clear?

We note calls from foster carers for greater information and clarity about their role, including what decisions they have the authority to make.³⁶

28. Would further guidance, for example good practice, be helpful to support decision making for foster carers (sometimes called delegated decision making) be helpful?

Not answered.

A national register

29. What are your views on a national register for foster carers in Scotland?

Not answered.

30. If a register is introduced where should the register be held?

Not answered.

31. What are your views on the potential to linking continuous professional development to a register?

Not answered.

32. What are your views on a national approach to foster care placement matching?

Not answered.

³⁶ Together (2019). *State of Children's Rights Report*, pp76-77.

https://www.togetherscotland.org.uk/media/1436/socrr_online_version.pdf [Date accessed: 24.01.25].

33. How can the Scottish Government support local authorities with resource planning of foster carers including building an evidence base and data on placements, which also includes those outside local areas?

Not answered.

Allegations

34. Should the Scottish Government update its guidance on managing allegations against foster carers?

As highlighted in earlier answers, the Scottish Government should ensure processes and guidance uphold recommendations from the UN Committee on the rights of the child, including:

- **Access to justice:** Ensure children have access to confidential, child-friendly and independent complaint mechanisms – including those in foster care.³⁷
- **Combatting violence and abuse:** Develop measures to prevent violence against children in alternative care; investigate all cases of abuse and ill-treatment of children in alternative care, ensure adequate sanction of perpetrators and reparation for victims, and ensure expert support for child victims.³⁸

Raising concerns

35. Is there is a need for the Scottish Government to take action in this area? If so, please explain why and what would be helpful, for example best practice guidance?

See answer above.

Wider issues

36. Is there anything not covered in the consultation which impacts on fostering that you would like to tell us about, or take action on?

Children's rights are indivisible and interdependent – an impact on one right affects other rights. Scottish Government must recognise the interconnected nature of issues such as child poverty and access to affordable housing when making decisions about the future of foster care.

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For further information, please contact Maria Doyle, Legal & Policy Manager

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³⁷ CRC/C/GBR/CO/6-7: Paras: 17(a).

³⁸ CRC/C/GBR/CO/6-7: Paras: 30(c), 33(c) and 33(e).