



# **CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014:**

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## **Statutory Guidance on Part 9: Corporate Parenting**



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## PREFACE

1. This statutory guidance is issued by the Scottish Ministers under section 63 of the [Children and Young People \(Scotland\) Act 2014](#) (the Act). It provides corporate parents with information and advice about how they should fulfil the duties set out in Part 9 (Corporate Parenting) of the Act. These duties come into force on 1 April 2015.
2. Subject to specific exemptions, all corporate parents must have regard to this guidance. Compliance will be monitored through reviews of corporate parenting reports (carried out by Scottish Ministers) and independent inspection.
3. Due to the variety of organisations included as corporate parents, this guidance does not prescribe specific processes and planning / reporting formats. Instead it sets out the parameters within which corporate parents should develop their own approaches, either individually or in partnership. Those approaches should also be shaped by the corporate parent's primary functions, and informed by the needs, views and experiences of looked after children and care leavers.
4. This guidance should be read alongside the guidance for Part 1 (Rights of Children), Part 3 (Children's Services Planning), Part 4 (Provision of Named Persons), Part 5 (Child's Plan), Part 10 (Aftercare) and section 96 (Assessment of wellbeing) of the Act. Other relevant legislative and policy guidance is listed at Appendix A.
5. This guidance will be accompanied by a series of Corporate Parenting Practice Notes, designed to support individual or groups of corporate parents to understand their legal responsibilities (within the scope of their other functions) and to learn from existing good practice. The guidance and Practice Notes should enable corporate parents to implement comprehensive and child/young person centred corporate parenting strategies, which improve the care experiences and outcomes of looked after children and care leavers across Scotland.

6. This guidance has been developed to assist corporate parents, but it will also be of interest to other individuals and organisations involved in supporting looked after children and care leavers.
  
7. Please note that this guidance (and relevant Practice Notes) will be reviewed in 2018.

## INTRODUCTION

8. When a child or young person becomes 'looked after' the state assumes duties and responsibilities to safeguard and promote their welfare and wellbeing. A wide range of legislation, regulation and guidance provides the framework within which actions take place, but the end-purpose of all of them is the same: to secure nurturing, positive childhoods, from which these vulnerable young people can develop into successful learners, confident individuals, responsible citizens and effective contributors.
9. Yet despite the extensive framework of law and policy, many looked after children and care leavers experience some of the poorest personal outcomes of any group in Scotland. Low levels of educational engagement and achievement feed into high levels of poverty, homelessness and poor mental health.<sup>1</sup> Rates of suicide and self-harm are higher than that of the general population.<sup>2</sup> In 2013 a third of young offenders had been in care at some point in their childhood.<sup>3</sup>
10. The needs of looked after children and care leavers are often complex, reflecting backgrounds of trauma, loss and instability. Some have physical and/or mental / learning disabilities. Safeguarding and promoting their welfare and wellbeing can, therefore, be challenging. But since national records began in 1981 the total number of looked after children and care leavers (eligible for services) have never exceeded more than 0.5% of the total Scottish population.<sup>4</sup> In view of Scotland's considerable human and financial resources, we can and must do better for these vulnerable children and young people.

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<sup>1</sup> Scottish Government (published annually) [Children's Social Work Statistics](#), Edinburgh; Meltzer, H, et al (2004) *The mental health of young people looked after by local authorities in Scotland*, London: TSO.

<sup>2</sup> Furnivall, J (July 2013) [Understanding suicide and self-harm amongst children in care and care leavers](#), IRISS Insights No. 21, Glasgow

<sup>3</sup> Broderick, R, McCoard, S & Carnie, J (January 2014) [Prisoners who have been in care as 'looked after children' 2013: 14<sup>th</sup> Survey Bulletin](#), Scottish Prison Service, p.5

<sup>4</sup> Calculation based on General Records Office Mid-Year Population Estimates 1981-2013, and Children Looked After Statistics, multiple years (figures for 'total numbers of Looked After Children' and 'eligible for aftercare services')

11. Corporate parenting represents the principles and duties on which improvements can be made for these young people. The term refers to an organisation's performance of actions necessary to uphold the rights and secure the wellbeing of a looked after child or care leaver, and through which physical, emotional, spiritual, social and educational development is promoted, from infancy through to adulthood. In other words, corporate parenting is about certain organisations listening to the needs, fears and wishes of children and young people, and being proactive and determined in their collective efforts to meet them. It is a role which should complement and support the actions of parents, families and carers, working with these key adults to deliver positive change for vulnerable children. In 2008 the Scottish Government and Local Authorities confirmed their commitment to the approach in [These Are Our Bairns: A Guide for Community Planning Partnerships on Being a Good Corporate Parent](#). The Scottish Government has now decided to build on this policy, extending corporate parenting duties to a wider group of public bodies and establishing statutory requirements for corporate parents to plan and report on their activities.
12. The purpose of this guidance is to clarify the duties of corporate parents, and explain the rationale behind them. It is designed to support corporate parents to turn Part 9 of the Act into practice which improves outcomes for looked after children and care leavers. The purpose of the Act as a whole is explained, and definitions set out for terms frequently used in this guidance (such as 'looked after child'). Each duty is then considered in a short, separate chapter, with links made to other relevant guidance and / or legislation where appropriate. A chapter on 'outcomes from corporate parenting' provides guidance on where corporate parents should concentrate their efforts, in respect to children and young people's rights and wellbeing. There are also chapters on dispute resolution, and interactions between corporate parents and birth parents. Appendix A sets Part 9 (Corporate Parenting) in the wider legislative context for looked after children and care leavers. Appendix B provides further background information on the policy of corporate parenting. Appendix C contains a reference list of useful resources and further information, which will assist in the implementation of Part 9 (corporate parenting).

## DEFINITION OF TERMS

### Looked After Child

13. The definition of a 'looked after child' is set out in section 17(6) of the Children (Scotland) Act 1995 ("the 1995 Act"), as amended by the Adoption and Children (Scotland) Act 2007 ("the 2007 Act") and Children's Hearings (Scotland) Act 2011 ("the 2011 Act"). A child is 'looked after' by a local authority when he or she is:
- provided with accommodation by a local authority under section 25 of 1995 Act; or
  - subject to a compulsory supervision order or an interim compulsory supervision order made by a children's hearing in respect of whom the local authority are the implementation authority (within the meaning of the 2011 Act); or
  - living in Scotland and subject to an order in respect of whom a Scottish local authority has responsibilities, as a result of a transfer of an order under regulations made under section 33 of the 1995 Act or section 190 of the 2011 Act; or.
  - subject to a Permanence Order made after an application by the local authority under section 80 of the 2007 Act.
14. To assist in the provision of their care some children and young people with physical and/or mental/learning disabilities are 'looked after' by local authorities (often under a 'section 25' arrangement). These children and young people are legally 'looked after', and so covered by the duties set out in Part 9 of the Act.
15. A child who has been adopted, or a child who is secured in a placement with friends or relatives by means of a Kinship Care Order (section 11 of the Children (Scotland) Act 1995), is not 'looked after' by a local authority. However, in both cases a child may still become 'looked after'. Where this

occurs, the child is covered by Part 9 (and other Parts of the Act relating to 'looked after children').

16. The legal route by which a child became looked after has no relevance to their entitlement for corporate parenting support. If a child is 'looked after', by any of the means set out above, the duties set out in Part 9 apply.
17. In this guidance the terms 'looked after child' and 'looked after children' refer to any individual falling into the definition provided above. It is acknowledged that some young people prefer the term 'looked after children and young people', but for ease of reading this guidance uses 'looked after child' or 'looked after children' to cover children and young people of all ages, from birth through to adulthood.

### **Care leavers**

18. The definition of a care leaver is set out in [section 29](#) of the Children (Scotland) Act 1995, as amended by [section 66](#) of the Children and Young People (Scotland) Act 2014.
19. From 1 April 2015 a young person will become a 'care leaver' if they cease to be 'looked after' on, or at any time after, their sixteenth birthday.
20. Please note that young people who became care leavers under the previous definition of a 'care leaver' will continue to be considered care leavers after April 2015. This means that a young person who became a care leaver under the previous definition will still be covered by the duties set out in Part 9 (corporate parenting) and eligible to the extended aftercare support provided through Part 10 (aftercare) of the Act. The previous definition of a care leaver was a young person who ceased to be looked after on or beyond their minimum school leaving age.



## Corporate Parent

21. The definition of a 'corporate parent' is provided by section 56 of the Children and Young People (Scotland) Act 2014. An organisation or individual is a corporate parent if they are "listed, or within a description listed, in schedule 4" of the Act.

## Corporate Parenting

22. For the purposes of this guidance the term corporate parenting is defined as:

"An organisation's performance of actions necessary to uphold the rights and safeguard the wellbeing of a looked after child or care leaver, and through which physical, emotional, spiritual, social and educational development is promoted."<sup>5</sup>

23. The necessary actions are set out in section 58 of the Act (corporate parenting responsibilities).

## Needs

24. An individual's 'needs' will be unique, identified through the process of assessment. For details about how 'needs' should be identified please refer to the guidance on 'Assessing the needs of children and young people for services and support' and 'Assessing wellbeing' below.)

## Interests

25. The term "interests" is not defined in the Act, so for the purposes of this guidance it should be interpreted as being "advantage or benefit". Therefore

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<sup>5</sup> Definition is adapted from Sonia Jackson's definition of 'parenting' presented in M. Davies (ed) (2000) The Blackwell Encyclopaedia of Social Work, Oxford, Blackwell, and cited in the Scottish Government (2008) [These Are Our Bairns: A Guide for Community Planning Partnerships on Being a Good Corporate Parent.](#)

the duty to “promote the interests” (section 58(1c)) relates to actions which may advantage or benefit looked after children and care leavers.

### **Wellbeing (as described in section 96 of the Act)**

26. Section 96(2) of the Act describes the term wellbeing in terms of eight indicators. A person assessing a child or young person’s wellbeing is to consider the extent to which the child or young person is:

- **Safe:** protected from abuse, neglect or harm.
- **Healthy:** having the best possible standards of physical and mental health, supported to make healthy and safe choices.
- **Achieving:** accomplishing goals and boosting skills, confidence and self-esteem.
- **Nurtured:** having a nurturing and stimulating place to live and grow.
- **Active:** having opportunities to take part in activities.
- **Respected:** being given a voice, being listened to, and being involved in the decisions which affect their wellbeing.
- **Responsible:** taking an active role within their home, school and community
- **Included:** being a full member of the communities in which they live and learn, receiving help and guidance to overcome inequalities.

27. These eight wellbeing indicators are sometimes known collectively by the acronym ‘SHANARRI’. While each indicator is separately defined, in practice they are connected and overlapping. Taken together the eight indicators offer a holistic view of each child or young person, identifying strengths as well as barriers to growth and development.

28. In respect to wellbeing, the term ‘promoted’ means ‘actively encouraged or further developed’. The term ‘safeguarded’ means ‘protected from harm or damage’. The term ‘affected’ means ‘influenced, changed’.

## THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

29. The [Children and Young People \(Scotland\) Act 2014](#) (the Act) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place in the world to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children's services improvement programme, [Getting it Right for Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.

30. The Act introduces a number of important changes for looked after children and care leavers in Scotland. In summary, these are:

- Every child and young person (up to their 18<sup>th</sup> birthday) will have a Named Person (Part 4)
- Every looked after child and care leaver (up to their 18<sup>th</sup> birthday) will have a Child's Plan (Part 5)
- 600 hours of free early learning and child care for all two year olds who are 'looked after' or secured with friends or relatives through a Kinship Care Order (Part 6, sections 47 and 48).
- Corporate parenting duties for certain individuals and organisations (Part 9).
- Extends eligibility for aftercare assistance up to an individual's 26<sup>th</sup> birthday; new duty on local authorities to report on the death of a young person in receipt of aftercare services (Part 10).
- 'Continuing Care', providing certain care leavers with the opportunity to continue with the accommodation and assistance they were provided with immediately before they ceased to be looked after (Part 11).
- Support for children at risk of becoming looked after (Part 12)
- Assistance for applicants and holders of a Kinship Care Order (Part 13)
- Use of Scotland's Adoption Register made a duty for all adoption agencies (Part 14).

31. Guidance on all of these changes will be made available by the Scottish Government. This guidance relates to Part 9 (corporate parenting) of the Act.

## GUIDANCE

### SECTION 56: CORPORATE PARENTS

32. All persons and organisations listed, or within a description listed, in schedule 4 of the Act are ‘corporate parents’ for the purposes of Part 9. Unless explicitly stated in the legislation, corporate parents are subject to all the duties detailed in this guidance.
33. At the date of the commencement (1 April 2015) the persons and organisations listed in schedule 4 are:

|                                                                                                     |                                                                           |                                                                   |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-------------------------------------------------------------------|
| The Scottish Ministers                                                                              | A local authority                                                         | A health board                                                    |
| Children’s Hearings Scotland                                                                        | The Principal Reporter                                                    | The Scottish Children’s Reporter Administration                   |
| A “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005 | A board constituted under the National Health Service (Scotland) Act 1978 | Skills Development Scotland Co. Ltd (registered number SC 202659) |
| The National Convener of Children’s Hearings Scotland                                               | The Commissioner for Children and Young People in Scotland                | Social Care and Social Work Improvement Scotland                  |
| The Scottish Social Services Council                                                                | The Scottish Sports Council                                               | The chief constable of the Police Service of Scotland             |
| Healthcare Improvement Scotland                                                                     | The Scottish Police Authority                                             | The Scottish Fire and Rescue Service                              |
| The Scottish Legal Aid Board                                                                        | The Mental Welfare Commission for Scotland                                | The Scottish Housing Regulator                                    |
| Bòrd na Gàidhlig                                                                                    | Creative Scotland                                                         | The Scottish Qualifications Authority                             |

## Explanation of terms used in schedule 4

34. The term “Scottish Ministers” refers to the Scottish Government and its Executive Agencies. All Scottish Ministers, and the directorates for which they are responsible, are corporate parents. Executive Agencies are organisations set up to perform a specific task(s) by the Scottish Government, reporting directly to Ministers. As such, all Executive Agencies will be subject to the corporate parenting duties set out in Part 9. The Scottish Government’s Executive Agencies are Accountant in Bankruptcy, Disclosure Scotland, Education Scotland, Historic Scotland, Scottish Prison Service, Scottish Public Pensions Agency, Student Awards Agency for Scotland, and Transport Scotland.<sup>6</sup>
35. Scottish Ministers are exempt from the duties set out in sections 61 – 64. Executive Agencies are also exempt from these sections of Part 9, but due to their accountability to Ministers, Executive Agencies are still expected to fulfil the duties prescribed in Part 9 of the Act. Executive Agencies will be asked to provide information to Scottish Ministers about how they have exercised their corporate parenting responsibilities. It is therefore advised that Executive Agencies implement Part 9 in full, having regard to all parts of this guidance.
36. The term “a health board” refers to Scotland’s fourteen territorial health boards, responsible for the protection and the improvement of their population’s health and for the delivery of frontline healthcare services.
37. The term “a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978” refers to the six special health boards which provide a range of national or specialist services in Scotland. These are NHS Education for Scotland, NHS Health Scotland, NHS National Waiting Times Centre, NHS 24, Scottish Ambulance Service and the State Hospitals Board for Scotland.<sup>7</sup>

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<sup>6</sup> List of Executive Agencies correct at date of publication, April 2015

<sup>7</sup> List of Special Health Boards correct at date of publication, April 2015

38. The term ‘a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005’ refers to colleges and higher education institutions (including all universities) in Scotland who are financed (in whole or part) by the Scottish Further and Higher Education Funding Council. The term “post-16 education body” was introduced into the Further and Higher Education (Scotland) Act 2005 by the ‘Modifications of Enactments’ included in the Post-16 Education (Scotland) Act 2013. The modified 2005 Act now includes the definition that a “post-16 education body” means “any fundable post-16 education body”. These bodies are listed in schedule 2 of the 2005 Act. The list includes all colleges, universities and other higher education institutions currently operating in Scotland. All colleges, universities and higher education institutions are therefore corporate parents, subject to the duties (excluding section 64) set out in Part 9 of the Act and detailed in this guidance.

### **Modifications and Exemptions**

39. Under section 56(2) Scottish Ministers may, by order, modify schedule 4. This means that Scottish Ministers can add, delete or amend entries to the list of corporate parents.
40. Section 56(4) provides for certain corporate parents to be exempted from the duty to follow directions issued by Scottish Ministers (as laid out in section 64). This exemption applies to:
- the Commissioner for Children and Young People in Scotland (SCCYP);
  - a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.
41. Section 56(5) gives Scottish Ministers the power, when adding persons to schedule 4 by order under section 56(2), to extend this exemption to new corporate parents.

#### **Schedule 4: A whole organisation responsibility**

42. Corporate parenting is not a task which can be delegated to an individual or team. Inclusion in schedule 4 means that the whole organisation (or the staff who support the individual listed) is responsible for fulfilling the corporate parenting duties set out in Part 9.
43. The purpose and intention of Part 9 is to improve how organisations as a whole support looked after children and care leavers. Implementation of this Part must be led by senior management across all departments, regardless of their focus or function. Staff at all levels must understand their duties, and be supported and enabled to fulfil them. In order to achieve this, it is recommended that each corporate parent review their induction and staff development processes to ensure that adequate opportunities are provided for staff to learn about looked after children and care leavers, and the specific responsibilities of their organisation as a corporate parent.
44. As corporate parenting is a corporate responsibility, an organisation's most senior corporate management will be held responsible for ensuring that the duties set out in Part 9 are met. Moreover, senior corporate management will be held accountable for an organisation's performance in respect to corporate parenting. Individuals involved in the governance of organisations (i.e. councillors and independent Board members) have an important role in scrutinising the activity of senior management.
45. Please note that while responsibility for delivering a discreet service, support or opportunity (to a looked after children or care leaver) may be delegated to an external provider or integrated authority (such as a Health and Social Care Partnership), accountability for securing and promoting the rights and wellbeing of looked after children and care leavers remains firmly with the organisations and individuals listed in schedule 4 of the Act.



## Corporate parents with a national or local focus

46. Part 9 does not make a distinction between corporate parents with a national or local focus. An organisation's corporate parenting duties therefore apply to all eligible children and young people, regardless of where the child or young person lives, or who they are formally looked after / provided with aftercare support by.
47. However, in practical terms it is likely that, where a corporate parent's functions are restricted to a specific administrative area within Scotland (such as a local authority or health board), corporate parenting duties will apply primarily to those looked after children and care leavers for whom they are responsible (under other legislation and guidance). In the case of a local authority, this means every child or young person whom is 'looked after' by them (under the definition on page 5 above), and every care leaver eligible for aftercare support from them, regardless of whether they live in or away from the local authority area). In the case of a territorial health board, corporate parenting responsibility would extend to the looked after children and care leavers who are ordinarily resident within the health board area.<sup>8</sup>
48. Where a corporate parent's functions relate to Scotland as a whole (rather than a specific administrative area), or the services provided by the corporate parent are available to children and young people from across Scotland, the duties set out in Part 9 apply to all Scottish looked after children and care leavers (those who are 'looked after' or 'care leavers' under Scottish legislation). Corporate parents in this category should give careful consideration to how they will fulfil their duties in respect to all eligible children, across all parts of Scotland.

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<sup>8</sup> For further information about establishing 'ordinary residence' of looked after children, please refer to: Scottish Government (March 2013) [Chief Executive Letter 03: Establishing the Responsible Commissioner: Guidance and Directions for Health Boards](#), p.19

## **Corporate parents who do not provide ‘services and support’**

49. While the duties set out in Part 9 apply equally to all corporate parents listed in schedule 4, their expression in practice will differ from corporate parent to corporate parent, reflecting the variety of functions represented by the organisations involved. One important factor shaping how these duties will be enacted is whether a corporate parent provides, in the exercise of their other functions, services and support directly to children and young people.
50. All of the individuals and organisations listed in schedule 4 are involved in safeguarding and promoting the wellbeing of children and young people. In different ways each provides a valuable service to the population of looked after children and young people. However, a number of corporate parents do not provide any services or support directly to children and young people, and instead fulfil functions related to scrutiny or administration. Critical as these functions are, they do not (in most instances) represent tangible “services or support” which can be accessed by individual looked after children and care leavers. In this guidance the term “services and support” therefore refers to the functions of an organisation which are available and accessible to individual children and young people, either independently or with the support of adults.
51. In this context it will not be possible for some corporate parents to “assess the needs” of individual eligible children and young people for services and support (section 58(1)(b)), or take action to help individual’s access services and support (section 58(1)(e)). This does not mean that these corporate parents are exempted from such duties, but it is an acknowledgment that the manner in which these duties will be fulfilled is shaped and constrained by their other functions. For instance, where no “services or support” are provided directly to children and young people, corporate parents will be limited to undertaking a general assessment of the population’s wellbeing needs. Although not equivalent to assessing specific individual young people, this general assessment is still essential, for it will not be possible for a corporate parent to fulfil their other Part 9 duties (such as seeking to provide opportunities designed to promote eligible children’s wellbeing (section 58(1)(d)) or being alert to

matters which might adversely affect children's wellbeing (section 58(1)(a)) without having undertaken a process of identifying and understanding eligible young people's needs.

52. Individual corporate parenting plans and reports are likely to differ significantly in their scope and emphasis, reflecting the abilities of corporate parents to realise specific Part 9 duties within the exercise of their other functions. But by including a wide range of individuals and organisations on schedule 4 the expectation is that, through meaningful collaboration, corporate parents collectively give real meaning to all of the duties set out in section 58 of the Act.

## SECTION 57: APPLICATION OF PART 9

53. Section 57 describes the population of children and young people to which Part 9 (corporate parenting) applies. The Act states that:

(1) This Part applies to—

(a) every child who is looked after by a local authority, and

(b) every young person who—

(i) is under the age of 26, and

(ii) was (on the person's 16th birthday or at any subsequent time) but is no longer looked after by a local authority.

54. Provision 1(a) means that a corporate parent's duties apply equally to all looked after children, regardless of their age, gender, location or placement type.

Provision 1(b) means that a corporate parent's duties apply equally to all care leavers, up until their 26<sup>th</sup> birthday. (For further details about the definition of a looked after child and care leaver, please see the pages 5 and 6 above.)

55. The Act goes on to state that:

(2) This Part also applies to a young person who—

(a) is at least the age of 16 but under the age of 26, and

(b) is not of the description in subsection (1)(b)(ii) but is of such other description of person formerly but no longer looked after by a local authority as the Scottish Ministers may specify by order.

56. Under this provision Scottish Ministers have the power to extend the population to which Part 9 (corporate parenting) applies, by means of a Ministerial Order (secondary legislation). Any extension of the eligible population must be approved by the Scottish Parliament, and corporate parents will have an opportunity to share their views on the proposals.

## **Application of Part 9: individuals or whole population**

57. All corporate parents should be clear that the duties set out in Part 9 (in particular section 58 (Corporate Parenting Responsibilities)) apply to individual eligible children and young people. In so far as it is consistent with the exercise of their other functions, every corporate parent should view their duties in relation to the specific needs of individual looked after children and care leavers. Part 9 sits firmly within the national Getting it Right for Every Child approach, which puts the needs of individual children at the centre of all decision making.<sup>9</sup>
58. The practical implications of this will differ significantly between corporate parents, in view of whether they provide services and support to children and young people, and their ability to identify individual eligible children amongst service users. For some corporate parents, such as those who do not provide any services or support, it may be appropriate to interpret the Part 9 duties in respect of the 'collective' population of looked after children and care leavers. For others, such as local authorities and health boards, existing duties (around assessment, care planning and collaboration) demand a constant focus on individual need; these organisations should already have a clear view of the needs of individual eligible children and young people (as well as systems in place to assess new eligible children), and be taking such actions as they consider necessary to safeguard and promote those individual's wellbeing.
59. The situation is perhaps most complex for corporate parents who provide services and support, but who are not able to identify (without notification from a local authority or self-declaration by service users) eligible individuals. In such cases it is accepted that the Part 9 duties will be implemented for individuals where the corporate parent is aware of their eligibility. Continued efforts should be made, however, to improve systems for identifying looked after children and care leavers among service users; proper use of the duty to collaborate

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<sup>9</sup> For further information on the national [Getting it Right for Every Child](http://www.gov.scot/Topics/People/Young-People/gettingitright) approach, please see the relevant section of the Scottish Government website: <http://www.gov.scot/Topics/People/Young-People/gettingitright>

(section 60) and other relevant legislation (such as Part 4 (Named Person Service) and Part 5 (Child's Plan) should facilitate this process.

### **Children and young people placed (or who move) away from home area**

60. Part 9 does not make a distinction between corporate parents with a national or local focus. An organisation's corporate parenting duties apply equally to all eligible children and young people, regardless of where the child or young person lives, or who they are formally looked after / provided with aftercare support by. However, as acknowledged in the preceding chapter, it is likely that corporate parents whose functions are restricted to a specific administrative area will concentrate their efforts on those children and young people for whom they are responsible (under other legislative provisions).
61. In this context, it is recommended that where looked after children and young people have been placed into an area by another local authority, or a care leaver moves to a new area of their own volition, the placing / home local authority should remain the child / young person's corporate parent. This is consistent with the principles and rules set out in [Looked After Children \(Scotland\) Regulations 2009](#) and the [Support and Assistance of Young People Leaving Care \(Scotland\) Regulations 2003](#).<sup>10</sup> In contrast, when a looked after child is placed, or a care leaver moves into, a new area, the territorial health board for that area becomes the child / young person's corporate parent. This is consistent with guidance set out in [Chief Executive Letter 03: Establishing the Responsible Commissioner](#) (2013).
62. Where relevant, corporate parenting plans and reports should make explicit reference to how corporate parenting duties are being fulfilled for children placed outside of administrative boundaries, and for care leavers who have moved away.

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<sup>10</sup> For further information please see Chapter 5 (Responsible Local Authority) of the [Supporting Young People Leaving Care in Scotland: Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities](#)

## **Children placed with third sector or private care providers**

63. Where a looked after child is placed with a third sector or private care provider (i.e. a residential care and / or education establishment) the placing local authority and the home health board remain the child's corporate parents. Day-to-day responsibility for safeguarding and promoting a child's wellbeing may be delegated to the independent care provider but, without exception, the child's corporate parents remain accountable for the fulfilment of the duties and functions set out in Part 9.

## **Transitions out of care**

64. Children who cease to be 'looked after' by a local authority (and who do not qualify as 'care leavers') are no longer covered by Part 9 of the Act. However the Act as a whole is focused on securing and promoting the wellbeing of all children. A child who is ceasing to be looked after should not experience a sudden removal of support or opportunities, but rather a transition to alternative interventions (as set out in their Child's Plan). Where relevant, corporate parents should consider their duties to children and young people under other Parts of the Act (and other legislation) when assessing how to support a child or young person who has recently ceased to be looked after. The involvement of corporate parents, families, mentors and other trusted adults will be important to securing positive transitions out of care for children.
65. Similarly, while the corporate parenting duties set out in Part 9 of the Act come to an end at a young person's 26<sup>th</sup> birthday, corporate parents are encouraged to keep the needs and rights of the young person at the centre of their decision making, and plan the transition away from support and services in cooperation with the young person and any other appropriate persons or services.

## SECTION 58: CORPORATE PARENTING RESPONSIBILITIES

66. The 'corporate parenting responsibilities' represent the core element of Part 9. Taken together the six duties provide an alternative definition of corporate parenting, and it is through a corporate parent's efforts to fulfil these duties that they will uphold the rights and promote the wellbeing of looked after children and care leavers.

67. Under section 58 the corporate parenting responsibilities are set out as:

(1) It is the duty of every corporate parent, in so far as consistent with the proper exercise of its other functions —

(a) to be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom this Part applies,

(b) to assess the needs of those children and young people for services and support it provides,

(c) to promote the interests of those children and young people,

(d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing,

(e) to take such action as it considers appropriate to help those children and young people—

(i) to access opportunities it provides in pursuance of paragraph (d),

(ii) to make use of services, and access support, which it provides, and

(f) to take such other action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to those children and young people.

68. Although corporate parents will fulfil these duties in a variety of ways, in view of their varied other functions, it is important to note that these six duties are not a menu from which corporate parents can pick and choose. The corporate parenting responsibilities are interrelated; good 'corporate parenting' depends on each of the duties being fulfilled (in a manner appropriate to the corporate parent). Corporate parents will differ in what they can practically deliver in



respect to each duty; for instance some corporate parents will be able to fulfil a duty independently, others only through collaboration. But in every case corporate parenting plans should be explicit about how (individual and groups of) corporate parents will meet each obligation, and corporate parenting reports document how that was actually done.

69. It is important to note that the ‘corporate parenting responsibilities’ are underpinned by the United Nations Convention on the Rights of the Child (UNCRC), and closely linked in with the obligations set out in Part 1 (Rights of Children) of the Act. It is recommended therefore, that all corporate parents should have a good understanding of the UNCRC, and what it means for their organisation.<sup>11</sup>

**(a) Be alert to matters which might adversely affect wellbeing**

70. In so far as it is consistent with the exercise of their other functions, corporate parents must be alert to matters which, or which might, adversely affect the wellbeing of looked after children and care leavers (section 58(1)(a)). This means that corporate parents must have systems in place to keep them informed of issues which could, potentially, have a negative impact on the life of individual child or young people and the eligible population as a whole. Relevant “matters” for an individual might include changes of placement and / or residence, changes in the accessibility of a service, or interaction with the justice system as a victim or witness. Relevant matters for the collective population might include changes to UK benefit rules, or the introduction of a high-profile inquiry relevant to the care system. The eight indicators of wellbeing are: safe, healthy, achieving, nurtured, active, respected, responsible, and included. Corporate parents must be alert to matters which might adversely affect a child’s or young person’s wellbeing in any of these areas. (A full definition of wellbeing is set out on page 8 above).

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<sup>11</sup> For details of the UNCRC articles, and what they mean in Scots law, please see the relevant web pages of Scotland’s Commissioner for Children and Young People: [www.sccyp.org.uk/rights/uncrcarticles](http://www.sccyp.org.uk/rights/uncrcarticles)

71. Keeping alert to matters affecting individuals requires a process of engagement with children and young people, and, where relevant, their primary carers. Only by engaging in dialogue will corporate parents be able to identify, understand and address the issues which matter most to looked after children and care leavers. To a significant extent this dialogue is already underway through established and informal mechanisms, as children and young people engage with the professionals and carers with whom they already have relationships. The feedback of these professionals, carers, mentors and advocates will be critical to corporate parents. But alongside these established and informal mechanisms, corporate parents should (where appropriate, in view of their other functions) provide opportunities for children, families, carers and young people to raise issues and concerns with them directly, through regular dialogue.
72. These opportunities should be well publicised, and accessible to the broad range of children and young people to which Part 9 applies. These opportunities will need to be safe spaces (physically and emotionally), well-facilitated and sensitive to the participants needs. Importantly, these opportunities for young people to engage directly with corporate parents should not be developed in isolation from each other. In view of the duty on corporate parents to collaborate (section 60) and avoid duplication, corporate parents should consider coordinating any direct engagement activities. Moreover, those who do undertake engagement activities should endeavour to make any resultant information available to other corporate parents. (Further information on models of direct engagement will be available in the relevant Practice Note.)
73. To facilitate planning, monitoring and review, corporate parents should also have a good understanding of the matters which, or which might, adversely affect the wellbeing of the population of (or specific groups of) looked after children and care leavers. Alongside the systems which enable a corporate parent to remain alert to matters potentially affecting the wellbeing of individual children, systems should be in place to aggregate available information with a view to identifying 'common issues' or 'trends'. Such analysis will enable

corporate parents to consider issues strategically, and monitor whether their response is delivering positive change for children and young people.

74. For corporate parents who provide services and support to children and young people, information collated from engagement exercises, assessments, plans and professional feedback should provide a good overall picture of matters which might affect the population (or groups of) looked after children and care leavers. This information (appropriately anonymised) should be made available (under the duty to collaborate) to those corporate parents who do not engage directly with looked after children and care leavers (or carers). All corporate parents should consider supplementing information collated from individual eligible children with general information from service providers (such as third sector organisations), academic research and data published regularly by the Scottish Government and its agencies.

**(b) Assess the needs of children and young people for services and support**

75. In so far as it is consistent within the exercise of their other functions, corporate parents must assess the needs of looked after children and care leavers for any services and support they provide to children and young people (section 58(1)(b)). The purpose of this is twofold:
  - a) to ensure that where a corporate parent provides services and support to children and young people, individual looked after children and care leavers have been assessed to determine whether receipt of a service or support would promote their wellbeing (in any of the eight wellbeing indicators).
  - b) to ensure that the services and support provided by the corporate parent are both relevant and accessible to the widest possible group of looked after children and care leavers. (To achieve this, corporate parents will need to have a system for profiling the needs of the eligible population as a whole (either at a local or national level, as appropriate to the corporate parent)).

76. In the context of this guidance, a child has a need if any aspect of their wellbeing is, or is at risk of, being adversely affected by any matter. For instance, if a child is unable to participate in regular physical activity they have a need. The child then requires additional support in order to meet this need.
77. Where a corporate parent provides services directly to looked after children and care leavers, the corporate parent should have a system in place to assess individuals for the services and support they provide. However in many cases an assessment of the child or young person's needs will already have been carried out, and further assessment (by the corporate parent) will not be necessary. In the case of individual looked after children and care leavers (up until their 18<sup>th</sup> birthday), 'wellbeing needs' should already be clearly recorded in their Child's Plan. (From August 2016 a Child's Plan will be a statutory requirement for all children requiring one or more targeted interventions to meet their identified wellbeing needs. A targeted intervention is defined in section 33(4) of the Act as a service provided by a relevant authority<sup>12</sup> which is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the services which are provided generally to children by the authority. For further details on the Child's Plan, please read the draft Statutory Guidance on Part 5: Child's Plan.)
78. In this context, it should not be necessary for corporate parents to 'assess needs' under Part 9 in the majority of individual cases; the process should have already been undertaken to inform the Child's Plan (and any other equivalent plan prepared for young people aged 18 and over), with the resultant information available to organisations identified as having a role in safeguarding or promoting a child or young person's wellbeing. In such instances the corporate parent's duty is to assess whether any of the needs identified in the Child's Plan (or equivalent) can be met through the services and support they provide. However, for care leavers (beyond their 18<sup>th</sup> birthday) who are not involved with aftercare services, there will not be an up to date plan. To

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<sup>12</sup> "Relevant authority" is defined in Part 5 as any health board, local authority, the managers of any grant-aided school or the proprietors of any independent school.

accommodate these cases, every corporate parent should have some facility for assessing the needs of individual young people.

79. There will, however, be situations where no plan is in place (such as for a care leaver who is not engaged with aftercare services). In these cases relevant corporate parents must have systems in place to assess individuals for the support they provide.
80. For those corporate parents who do not currently provide services directly to children and young people, a general assessment of the population's needs may be all that is possible. Such assessments should be based on the population-level information generated by service providing corporate parents (see paragraphs below) and other external sources (academic research, third sector input, etc.). Please note that, even though a corporate parent may not currently provide services and support, a general assessment of needs is still important. It is necessary, for example, to enable a corporate parent to remain alert to matters which, or which might, affect wellbeing (section 58(1)(a)). It is also essential for planning, allowing the corporate parent to identify opportunities through which they can safeguard and promote the wellbeing of looked after children and care leavers.
81. A general assessment of population need will also be sufficient for those corporate parents (such as the police and universities) who provide services directly to children and young people but who are unable to identify looked after children or care leavers. However these corporate parents should thoroughly explore options for how they might identify those individual young people covered by Part 9. For example, the 16+ Learning Choices Data Hub (administered by Skills Development Scotland) should enable providers of 16+ education to direct services and support to looked after children and care leavers.
82. As alluded to above, where a corporate parent does provide services and support to children and young people, effort should be made to collate and analyse the information available from individual-level assessments, plans and

engagement. This should be combined with information provided by external organisations (including independent or third sector service providers), academic research and national data, in order to provide a broad and strategic assessment of the population's needs. This information should be shared with other corporate parents (under the duty to collaborate), and used by decision makers in the planning and evaluation of services and support. The information should form the basis of corporate parenting plans and reports. (There are important links here with the duties placed on local authorities and health boards to prepare 'Children's Services Plans' (Part 3 of the Act); statutory guidance will be available from the Scottish Government in advance of commencement of these duties.)

83. The aim of this duty is to ensure services and support are relevant and accessible to looked after children and care leavers. It is not, therefore, sufficient for needs to be identified but not addressed. Where relevant, corporate parenting plans and reports should state explicitly how assessments of need will (or have) led to changes in existing provision, or the development of new services. Where no changes are considered necessary, plans and reports should explain why, in reference to the assessment of needs which have been undertaken.

**(c) Promote the interests of looked after children and care leavers**

84. It is the duty of all corporate parents, in so far as it is consistent with the exercise of their other functions, to promote the interests of looked after children and care leavers (section 58(1)(c)). For the purposes of this Part of the Act, the phrase "promote the interests" should be interpreted as "pursuing advantage or benefit for". Therefore this duty relates to the performance of actions which may advantage or benefit looked after children and care leavers.
85. The promotion of interests can take many forms, some of which will be more relevant to certain corporate parents (in view of their primary functions) than to others. Promotion of interests could include advocacy (on behalf of an individual or the population), positive action to widen access to education,

leisure or employment opportunities (on behalf of an individual or the population), tackling discrimination, upholding children's rights, and working to redress barriers to their positive wellbeing. A funding organisation could, for instance, ensure that resources are directed towards projects which explicitly involve looked after children and/or care leavers. On the basis of the 'assessment of need' (section 58(1)(b)) and 'being alert to matters which might adversely affect their wellbeing' (section 58(1)(a)), corporate parents should identify the most appropriate ways in which they can promote the interests of looked after children and care leavers. The approaches chosen (and the activities involved) should be clearly stated in corporate parenting plans and reports.

86. The duty to 'promote the interests' applies to the collective population of looked after children and care leavers and individual children and young people. Where relevant and appropriate (in view of their primary functions) corporate parents should actively seek to promote a child or young person's interests within the services they control. A local authority could, for instance, provide support to a young person eager to engage in creative activities. In a similar vein, a health board could facilitate a job shadowing experience with clinical professionals for a young person interested in pursuing a career in medicine.
87. Please note that this duty to promote the interests of looked after children and care leavers is directly linked in with the obligations set out in the United Nations Convention on the Rights of the Child (UNCRC), and the obligations set out in Part 1 (Rights of Children) of the Act.

**(d) Provide opportunities to participate in activities designed to promote wellbeing**

88. Every corporate parent must, in so far as it is consistent with the exercise of their other functions, seek to provide opportunities for looked after children and care leavers to participate in activities which are designed to promote their wellbeing (section 58(1)(d)). In practical terms this means that corporate parents must extend, develop or procure activities which offer looked after

children and care leavers a chance to improve their wellbeing (as defined by the eight wellbeing indicators (SHANARRI)). Importantly, it is about more than just 'safeguarding' their wellbeing, which may be fulfilled through regular business.

89. The aim of this duty is to secure a wide range of high-quality opportunities through which this specific group of young people do become successful learners, confident individuals, responsible citizens and effective contributors to their communities. The first step in fulfilling this duty is, therefore, identifying which activities would be relevant, and seeking to understand how looked after children and care leavers can be supported to participate in them. Proper fulfilment of corporate parenting responsibilities (a) and (b), including, where relevant, direct consultation with children and young people, should provide much of the necessary information. In addition, corporate parents should consider the role of carers (including family members), professionals and other trusted adults will play, both in providing relevant information, and assisting in participation.
90. The next step is ensuring the identified activities are available to the eligible population. In some cases it may be necessary for corporate parents to develop or procure new activities (such as excursions for looked after children, or modern apprenticeship schemes for care leavers). But in many instances the corporate parent's role will be to make it possible for looked after children and care leavers to engage in existing activities. (For further information on supporting young people to access opportunities, please review the guidance for duty (e) below).
91. Schedule 4 includes a range of corporate parents, with varied functions. It is expected, therefore, that corporate parents will fulfil this duty in a variety of ways, making reference to both their function and focus. For example, corporate parents who do not provide services directly to children or young people are more restricted in the activities they can offer. All corporate parents are, however, employers, with the power to offer opportunities for work experience, training or employment. Many corporate parents are in a position to



provide volunteering opportunities. Staff could also be encouraged and supported to become mentors for young looked after children and care leavers. Other organisational functions, such as inspection or reviewing funding applications, could be adjusted to include the participation of the eligible population. Each of these examples would offer a looked after child or care leaver with an opportunity to improve their wellbeing.

92. While it is expected that the range and type of opportunities made available will vary among corporate parents, it is not the responsibility of every corporate parent to provide activities which address all wellbeing needs. Corporate parents with a particular focus (such as housing, education or health) may wish to tailor their activities to the relevant aspects of children's wellbeing. The breadth of corporate parents included on schedule 4 should ensure that, collectively, the varied needs of looked after children and care leavers are covered appropriately. However, all corporate parents remain under a duty to assess the needs of looked after children and care leavers (section 58(1)(b)), and to promote their interests (section 58(1)(c)), so where it is identified that insufficient opportunities are being made available, to either the eligible population or an individual, corporate parents are under a duty to make activities available (if appropriate for them to do so, in view of their other functions), or advocate for activities to be made available by other corporate parents.
93. Corporate parents must ensure that the opportunities provided are not one-off chances. As far as it is practical, looked after children and young people must have multiple opportunities to participate in activities, and not be penalised if they are unable to, or choose not to. For instance, if a young person does not take up a modern apprenticeship with a corporate parent, they should not be excluded from applying again at a later date.
94. The phrase 'seek to provide' means that corporate parents must invest in making children and young people aware of the activities available, and then support them to do so. It will not be sufficient to simply make opportunities available. Corporate parenting plans and reports should be explicit about how

the corporate parent (or group of corporate parents) informed and enabled looked after children and care leavers to participate in the activities they made available. (Further information on supporting young people to access opportunities is included in the guidance for duty (e), immediately below).

**(e) Actions to help eligible children and young people access opportunities and make use of services**

95. Every corporate parent, in so far as it is consistent with the exercise of its other functions, must take such action as it considers appropriate to help looked after children and young people access the opportunities it provides (under duty (d) above) and to make use of the services and support which it provides (section 58(1)(e)).
96. Looked after children and care leavers face many barriers to their participation in activities and engagement with services and support. Common practical barriers can include limited access to transport and finances, changes of residence, childcare and other caring responsibilities, low levels of numeracy and literacy, and socially isolated carers who lack in confidence. Children's mental and physical disabilities may also limit opportunities to participate. Considerable emotional barriers also need to be taken into account, including unresolved trauma, fear of failure, loss and rejection, and problems related to drug and alcohol misuse. Engagement with children and young people (whether undertaken directly or indirectly), combined with an assessment of needs, and consideration of matters which might adversely affect wellbeing, should provide corporate parents with an understanding of the barriers faced by this population(s). Corporate parents must then identify and implement such actions as it considers appropriate to help looked after children and care leavers overcome the barriers, so that they can benefit from the opportunities, services and support available to them. The appropriateness of action will depend on children and young people's right to privacy, corporate parents' duty to share information responsibly, and considerations about the risk of stigmatising children, practicality and financial viability.

97. A key part of this duty is keeping eligible children and young people informed of the opportunities, services and support available to them. For all corporate parents this will require close cooperation with local authorities, as these are likely to have the most direct and regular contact with looked after children, care leavers and carers. Corporate parents may also wish to build links with private and third sector organisations providing care and support to the eligible population. However, corporate parents should also put in place their own systems for informing the eligible population. Such systems could include direct interaction, designated staff, publications, websites and social media. A corporate parent's other functions, and the opportunities, services and support they provide to the eligible population, should determine which approach is most suitable.
98. Corporate parents should give consideration to the role families, carers and other trusted adults (including professionals) will play in enabling children and young people to access opportunities. Not only will these individuals be a valuable source of information about why children and young people experience difficulty engaging with a service or taking up an opportunity, they will also be important source of support, helping to facilitate a child or young person's engagement.
99. Where barriers to participation in activities or engagement with support have been identified, this duty requires corporate parents to take such action as it considers appropriate to address them. In the case of limited access to transport, for instance, appropriate action may be to organise for free public transport, or to agree start and finish times which fit around the individual's availability. Where the barriers are primarily emotional, appropriate action may be to offer a mentor, or to structure the activity in such a way as to minimise risk. For those corporate parents who will offer only limited opportunities to looked after children and care leavers, and who do not provide services or support directly, there is still an important role in eliminating barriers to participation in all areas of daily life, including social, cultural and educational. All corporate parents, regardless of their other functions, can play a role in improving access to opportunities, services and support; corporate parenting

plans and reports should state clearly what actions the corporate parent (or group of corporate parents) have taken to fulfil this duty.

**(f) Actions to improve the way in which it exercises its functions in relation to looked after children and young people**

100. A corporate parent must, in so far as it is consistent with the exercise of its other functions, take such actions as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to looked after children and care leavers (section 58(1)(f)). This means that all corporate parents should keep under review their performance with respect to fulfilling their corporate parenting responsibilities, and where improvements are identified (such as increasing the range or enhancing the quality of wellbeing promoting activities) appropriate action must be taken to implement them. The appropriateness of action will depend on children and young people's right to privacy, corporate parents' duty to share information responsibly, and considerations about the risk of stigmatising children and the sustainability of improvements.
101. Corporate parenting plans should be clear about how the process of monitoring and review will be undertaken. Corporate parenting reports should include the conclusions of the review, details of the actions taken in response, and if certain actions have not been taken, clear explanations why.
102. For those corporate parents who do not provide services to children and young people directly, the process of review, and any actions identified, will be restricted to assessing performance in respect of fulfilling their corporate parenting responsibilities (such as keeping 'alert to matters which affect wellbeing' or providing opportunities to promote wellbeing). However, for corporate parents who do provide services to children and young people directly, the process of review and improvement should encompass all their relevant functions. For example, a local authority or health board should review the performance of all the services they make available to children and young

people, on the basis that these are services and support which may be used by looked after children and care leavers.

### **Consistent with the proper exercise of other functions**

103. Section 58 of the Act states that it is the duty of every corporate parent to fulfil their corporate parenting responsibilities ‘in so far as consistent with the proper exercise of its other functions’. This means that corporate parenting responsibilities (section 58) should be fulfilled within the parameters afforded by a corporate parent’s primary functions, and the structure it maintains to support these. It is not the purpose of Part 9 to re-orientate organisations away from their other functions. If a corporate parent does not provide services directly to children or young people, Part 9 does not oblige them to establish them.
104. The purpose of Part 9 is to establish a common understanding of the principles and duties which constitute corporate parenting, and to oblige a range of publicly funded bodies to consider what more they each can do to improve the lives of looked after children and care leavers. Part 9 does aim to improve the availability of opportunities, services and support for looked after children and care leavers, but the expectation is that this will be done through the collective action of corporate parents, each playing their own distinct role.
105. Every corporate parent in schedule 4 has a role in improving the wellbeing of looked after children and care leavers, and the first and second corporate parenting responsibilities (‘to be alert to matters’ and ‘to assess the needs’) are, in part, designed to ensure organisations identify that role. At a minimum all corporate parents should be able to identify activities which help to promote wellbeing (such as offering education, training and employment opportunities within the organisation) and take steps to promote looked after children and care leaver interests in whatever area of public policy the corporate parent operates in. In view of the varied functions of corporate parents, it is expected that approaches to ‘corporate parenting’ (as set out in section 58 of the Act) will vary accordingly. This is in the interests of looked after children and care leavers, whose needs vary widely.

106. The Practice Notes which accompany this guidance will explore on how individual or groups of corporate parents can fulfil their duties within the parameters prescribed by other functions.

### **Modifications to the corporate parenting responsibilities**

107. Scottish Ministers may, by order, modify the list of corporate parenting responsibilities so as to confer, remove or vary a duty on a particular corporate parent, corporate parents of particular description, or all corporate parents (section 58(2)).

108. Ministerial Orders are Scottish Statutory Instruments laid before the Scottish Parliament. Any order made under section 58(2) would be subject to an affirmative parliamentary procedure, and therefore receive a level of parliamentary scrutiny.

## **SECTION 59: PLANNING BY CORPORATE PARENTS**

109. Under section 59 a corporate parent must prepare, keep under review, and publish a Corporate Parenting Plan. This plan must set out how the corporate parent proposes to fulfil its corporate parenting responsibilities (as set out in section 58 of the Act).

110. The format of a corporate parenting plan is not prescribed in the Act or this guidance. However the content of the plan must include information on how the corporate parent (or group of corporate parents if a joint plan) will:

- Be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom corporate parenting applies.
- Assess the needs of those children and young people for the services and support they provide.
- Promote the interests of those children and young people.
- Provide those children and young people with opportunities to participate in activities designed to promote their wellbeing.
- Take such action as it considers appropriate to help those children and young people to (i) access the opportunities it provides, and (ii) make use of services, and access support, which it provides.
- Take such action as it considers appropriate for the purposes of improving the way in which it exercises its functions in relation to the children and young people to whom corporate parenting applies.

111. These corporate parenting duties apply equally to all looked after children and care leavers. Due to the wide range of ages and placement types experienced by the eligible population, corporate parents will need to consider how the wellbeing needs of the whole population can be met. In preparing a corporate parenting plan it is recommended that details are given, where appropriate, about how the corporate parent (or group of corporate parents if a joint plan) will fulfil their responsibilities in respect to:
- the different ages (and stages of development) of looked after children;
  - the different genders;
  - the different placement types in which looked after children and care leavers live;
  - looked after children and care leavers with disabilities;
  - the different cultural and religious backgrounds of looked after children and care leavers;
  - the different geographical contexts in which they live (e.g. urban/rural)
112. Where appropriate, corporate parents should consider how to meet the needs of younger children (0 – 11) and those who live at home or with kinship carers. Traditionally these groups have not enjoyed the same benefits from corporate parenting as others. To ensure the corporate parenting duties are fulfilled equally for all children and young people, it is recommended that corporate parents consider how they will engage and interact with children’s carers. These adults will play a critical role in keeping corporate parents alert to matters affecting the wellbeing of the eligible population, and enabling children and young people to participate in opportunities, and access services and support.
113. It is also recommended that corporate parenting plans include details of any planned collaboration between corporate parents. Corporate parents are under a duty to collaborate with each other, in so far as it is reasonably practical, when exercising their corporate parenting duties; this includes, if appropriate, the development of a joint-corporate parenting plan. (For further details on the duty to work collaboratively, please see the relevant chapter below.)



114. A corporate parent (or group of corporate parents) must keep their plan under review. The purpose of this review should be to (a) establish if the plan is being delivered, and (b) identify ways in which the corporate parent(s) may improve the way it exercises its corporate parenting functions. A corporate parent must put in place systems to regularly collect and analyse information relating to its performance. It is recommended that all corporate parents set clear objectives for the duration of the plan, on which their performance will be measured. In respect of the opportunities, services and supports which may be provided, corporate parents should pay close attention to the quality of what they are providing, not just the volume and range. This will involve seeking and analysing feedback from children and young people who participated in activities or accessed services.
115. The Act does not prescribe a timescale for reviewing the corporate parenting plan. The duty is to ‘keep its plan under review’, so all corporate parents should review their plan regularly (e.g. bi-annually, annually), assessing their performance when relevant information is available. However, at a minimum, prior to publishing a corporate parenting report (section 61) or a revising a corporate parenting plan, corporate parents should undertake a review (of their performance). The findings of this review should be published in the corporate parenting report, and used to update the corporate parenting plan. It is recommended that the process of reviewing, reporting on, and updating the plan, takes place at least once every three years. (For further details on reports by corporate parents, please see the relevant chapter below.)
116. Section 59(2) requires a corporate parent, where appropriate, to consult with other corporate parents before preparing or revising their corporate parenting plan. (For further details on collaborative working among corporate parents, please see the relevant chapter below.) Corporate parents must also consult with such other persons as they consider appropriate. In every case the term ‘appropriate person’ would include the children and young people to whom Part 9 applies. While it may not be possible or desirable for every corporate parent to consult with the eligible population directly, every corporate parenting plan should take account of their views and aspirations. Those corporate parents

who do not engage with looked after children and care leavers directly should collaborate closely with corporate parents who do, or consult other organisations who can provide relevant information and insight.

117. Section 59(3) requires a corporate parent to publish their plan, and any revised plan, in such manner as it considers appropriate. The legislation also emphasises that plans may be published together with, or as part of, any other plan or document. This guidance has already recommended that the plan should be reviewed and updated at least every three years. This updated plan must then be published in a document which is easily accessible to both the eligible population and general public. Accessibility relates to both the availability of the document (i.e. published online), and its format and language.
  
118. Plans may be published alone, or as part of another document. Corporate parents choosing to publish their plan as part of another document should carefully consider the relevance and accessibility of the other document. In view of the duty on all corporate parents to publish a report on how they exercised their corporate parenting functions, it is recommended that plans and reports are published together, in the same document, to make it as easy as possible for children and young people to access them. For some corporate parents it may be appropriate to include their plans in the wider 'Children's Services Plan', prepared under Part 3 of the Act. However, corporate parents choosing to do so must ensure that this document meets the necessary requirements in terms of accessibility for looked after children and care leavers. Where a group of corporate parents choose to publish a joint plan, regardless of the format they must ensure the individual contributions of each corporate parent are clearly detailed.

## **SECTION 60: COLLABORATIVE WORKING AMONG CORPORATE PARENTS**

119. Section 60 requires all corporate parents to collaborate with each other, in so far as is reasonably practicable, when exercising their corporate parenting duties, where they consider that doing so would safeguard or promote the wellbeing of children and young people to whom Part 9 of the Act applies.
120. Collaboration may involve (but is not restricted to):
- (a) sharing information,
  - (b) providing advice or assistance,
  - (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
  - (d) sharing responsibility for action,
  - (e) funding activities jointly,
  - (f) exercising functions under this Part jointly (for example, by publishing a joint plan or joint report).
121. For any corporate parent to be successful in fulfilling their duties a measure of collaborative working with other corporate parents will be necessary. Whether it is in preparation of a corporate parenting plan, verification of young person's eligibility, or delivery of activity, corporate parents will need the support of others. This is a reflection of the varied functions of corporate parents. For corporate parents with no direct contact with children and young people, collaboration may be necessary to fulfil their duties to "be alert to matters which might affect wellbeing" (section 58(1)(a)), and to "assess their needs" (section 58(1)(b)), among others. For some corporate parents collaboration may offer the means by which they can 'promote the interests' of looked after children and care leavers (section 58(1)(c)) or take appropriate action to help eligible young people to access the opportunities, services and support provided (section 58(1)(e)).

122. In the interests of the eligible population, corporate parents should actively consider funding activities jointly. By combining resources corporate parents may be able to offer a wider range of quality opportunities, services and supports for looked after children and young people. While the pressures on an organisation's resources are acknowledged, it will not be acceptable for a corporate parent to claim resource constraints as the reason why an opportunity, service or support cannot be provided, without evidence that they have comprehensively explored the opportunities for collaboration (including joint funding) with other corporate parents.
123. Effective collaboration will depend, in part, on the sharing of information. In most cases it should be possible to share relevant information without requiring the disclosure of personal information. When corporate parents wish to disseminate information about the activities and support they provide, for example, they should collaborate with those corporate parents (such as local authorities) who have direct contact with children and young people, and can distribute information on their behalf. Where the sharing of personal information is required in order to safeguard or promote the wellbeing of a child or young person, this should be done proportionately, in compliance with the principles and provisions of the Data Protection Act 1998.
124. Section 60 does not prescribe the format of collaborative working. Some corporate parents may wish to develop formal partnerships, pooling resources and expertise to fulfil their corporate parenting functions. Others may wish to use existing collaborative structures (such as Community Planning Partnerships); however existing structures may have limited memberships, so corporate parents choosing this option will need to consider how they also engage with corporate parents outside of these structures. For some corporate parents, in view of their other functions, collaborative working will only ever be appropriate on an ad hoc basis, and in a limited way. Ultimately it is the responsibility of each corporate parent to identify how and with whom they collaborate. Any collaboration should be recorded in the corporate parenting report. When no collaboration has taken place over the course of a corporate parenting report, an explanation should be provided.

## **SECTION 61: REPORTS BY CORPORATE PARENTS**

125. Under section 61 a corporate parent must report on how it has exercised its corporate parenting responsibilities under section 58, its planning and collaborating functions under sections 59 and 60, and its other functions under Part 9. Corporate parenting reports may include information about standards of performance, and the outcomes achieved for looked after children and young people. Corporate parenting reports should be published in such manner as the corporate parent (or group of corporate parents if a joint report) consider appropriate; this could mean publishing the report alongside other reports or documents (such as the corporate parenting plan) or as part of other reports or documents (such as an Annual Report).
126. A corporate parenting report should be published at least once every three years. The process for preparing and publishing a corporate parenting report should be part of a coherent process of planning, review and reporting. The report should be linked to the objectives and activities detailed in the plan, providing an analysis of progress and identifying any actions which could improve the way in which the corporate parent (or group of corporate parents) exercises its functions. As with the plan, the corporate parenting report should be easily accessible to both the eligible population and general public. Accessibility relates to the availability of the document (e.g. published online), its format and language.
127. The content of corporate parenting reports will be shaped by the content of corporate parenting plans. At a minimum, every corporate parenting report must include information on:
- How the corporate parent (or group of corporate parents) has exercised the duties set out in section 58 (the 'corporate parenting responsibilities')
  - How the corporate parent (or group of corporate parents) has fulfilled its functions in respect to planning, collaborative working with other corporate

parents, preparing reports and, where relevant, providing information to Scottish Ministers and following directions issued by Scottish Ministers.

128. Within these sections, corporate parenting reports should detail the performance of corporate parents, including outcomes achieved. It will not be sufficient for corporate parenting reports to be narrative descriptions of activity. Corporate parenting reports must be based on data and analysis. As the guidance on corporate parenting plans stated, it is recommended that corporate parents set clear objectives, which their performance can be measured and reported upon. Where relevant, such as fulfilment of the duty to provide activities to promote wellbeing, reviews of performance should consider the quality of the opportunities provided, and not just the extent (i.e. total number) or range. The purpose of Part 9 is to safeguard and promote the wellbeing of looked after children and care leavers, so all corporate parenting reports should explain how individual corporate parents have contributed to this aim.
129. Within corporate parenting reports it will be particularly important to detail how the wellbeing needs of looked after children and care leavers were identified, and how opportunities, services and supports were developed or made accessible to the eligible population (within the parameters set by the corporate parent's other functions). If publishing a joint report, corporate parents should ensure that their specific contributions are clearly stated.
130. It is important to note that many corporate parents are subject to reporting requirements under other Parts of the Act (in particular Parts 1 and 3) and other legislation (e.g. Equalities Act 2010). Corporate parents are encouraged to make the links between these separate reporting requirements, combining reports, where relevant, into a single publication. Effective collaborative working between corporate parents should identify opportunities to facilitate the process of reporting on a range of separate but interrelated areas.
131. Scottish Ministers are not corporate parents for the purposes of sections 61-64. This means they are exempt from this duty to report. However Scottish Ministers are subject to their own specific reporting duty, set out in section 65.

## **SECTION 62: DUTY TO PROVIDE INFORMATION TO SCOTTISH MINISTERS**

132. Under section 62 a corporate parent must provide Scottish Ministers with such information as they may reasonably require to determine:

- How the corporate parent has exercised its duties under section 58 (corporate parenting responsibilities).
- How the corporate parent has fulfilled its other functions under Part 9 (including planning, collaborative working and reporting).

133. The information required by Scottish Ministers may relate, in particular, to (a) standards of performance, in respect to the corporate parent's exercise of its functions, and (b) the outcomes achieved for the eligible population of children and young people.

134. Corporate parents may provide information to Scottish Ministers in any format which meets the requirements set out immediately above. However it is strongly recommended that corporate parenting reports include all the relevant information, and for these to be submitted to Scottish Ministers when information is requested. As Scottish Ministers are under a duty to report to the Scottish Parliament on how they have exercised their corporate parenting responsibilities at the end of each three year period (section 65), it is likely that requests for information will follow a similar schedule. Any corporate parent wanting to submit a corporate parenting report in response to a request for information will, therefore, need to have an up to date report published at least every three years. Please note that while it is likely that requests for information by Scottish Ministers will come every three years, Scottish Ministers are empowered to ask for relevant information at any time. Corporate parents should have suitable arrangements in place to generate the required information on request.

135. The duty to provide information to Scottish Ministers (section 62) provides a layer of accountability, through which the performance of corporate parents, and the outcomes achieved, may be monitored. On the basis of the information provided, Scottish Ministers may take action to improve the way a corporate parent exercises its functions under Part 9 of the Act (such as issuing a direction under section 64 or updating guidance). However, it is important to note that any assessment of a corporate parent's performance in respect to section 58 (corporate parenting responsibilities) will be undertaken in reference to the corporate parent's other functions.



## **SECTION 63: GUIDANCE ON CORPORATE PARENTING**

136. A corporate parent must have regard to any guidance about corporate parenting issued by Scottish Ministers. Guidance may include advice or information about how a corporate parent should:

- Exercise their corporate parenting responsibilities;
- Promote awareness of their corporate parenting responsibilities;
- Plan, collaborate or report (duties under sections 59, 60 and 61);
- Exercise other functions under Part 9 (including providing information to Scottish Ministers)

137. Guidance may also provide advice about the outcomes (for looked after children and care leavers) which corporate parents should seek to achieve. (For further detail please see the chapter on 'Outcomes from corporate parenting'.)

138. Before issuing or revising guidance, Scottish Ministers must consult with any corporate parent to whom it relates and any other persons as it considers appropriate.

139. This guidance document (Statutory Guidance on Part 9 (corporate parenting)) is issued under section 63 of the Act. Every corporate parent (with the exception of Scottish Ministers) must have regard to it. Only in exceptional circumstances, with good reason, may corporate parents deviate from this guidance.

## **SECTION 64: DIRECTIONS TO CORPORATE PARENTS**

140. A corporate parent must comply with any direction issued by Scottish Ministers. These directions can relate to how a corporate parent has fulfilled their duties under section 58 (corporate parenting responsibilities) and how they have exercised their other corporate parenting functions (i.e. planning, collaborating reporting, etc.) under Part 9 of the Act.
141. Directions may be issued under the powers provided to Scottish Ministers by section 64 of the Act. Before issuing, revising or revoking a direction, Scottish Ministers must consult with any corporate parent to whom it relates, and any other persons they consider appropriate.
142. Under section 56(4), the Commissioner for Children and Young People in Scotland (SCCYP) and a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005, are not corporate parents for the purposes of section 64. This means that they are not subject to the duty to comply with a direction issued by Scottish Ministers. However this exemption only applies to directions issued under section 64; relevant Ministerial Orders issued under sections 56, 57 and 58, and guidance issued under section 63, should be complied with in full.

## **SECTION 65: REPORTS BY SCOTTISH MINISTERS**

143. Scottish Ministers must, as soon as practicable after the end of each three year period, lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period. The first three year period begins on 1 April 2015.
144. The report presented by Scottish Ministers is likely to follow a similar format to that set out for other corporate parents (in the guidance on section 61 above). Content will include information about how Scottish Ministers have fulfilled their duties under section 58 (corporate parenting responsibilities) and other relevant duties (planning (section 59), collaborative working (section 60)). Scottish Ministers are not corporate parents for the purposes of sections 61 to 64.
145. The report presented by Scottish Ministers will include information about how all the directorates of the Scottish Government, and their Executive Agencies, have performed in respect of their corporate parenting duties over the three year period. It is on the basis of this report that the Scottish Parliament will hold Scottish Ministers to account.

## OUTCOMES FROM CORPORATE PARENTING

146. Under section 63 Scottish Ministers are empowered to issue guidance to corporate parents about the kind of outcomes (for the eligible population of children and young people) which should be achieved through corporate parenting (the proper fulfilment of all duties set out in Part 9).

147. This guidance recommends that every corporate parent considers, in the context of their primary functions, their contribution towards:

- Providing safe, secure, stable and nurturing homes for looked after children and care leavers;
- Enabling looked after children and care leavers to develop or maintain positive relationships with their family, friends, professionals and other trusted adults;
- Upholding and promoting children's rights;
- Securing positive educational outcomes for looked after children and care leavers;
- Ensuring 'care' is an experience in which children are valued as individuals, and where support addresses their strengths as well as their needs;
- Ensuring physical or mental health concerns are identified early and addressed quickly;
- Increasing the number of care leavers in education, training and employment;
- Reducing the number of looked after children and care leavers who enter the youth and criminal justice systems.

148. This is not an exhaustive list, and the outcomes adopted by each corporate parent (and recorded in the corporate parenting plan) should be identified through an assessment of need (a duty under section 58(1b)) and by remaining alert to matters which adversely affect the wellbeing of looked after children and care leavers (section 58(1b)). Critically, corporate parenting outcomes should

be shaped through continual discussion and engagement with children and young people. Meaningful dialogue is essential to effective corporate parenting. However, the level of consultation must be proportionate, and corporate parents should work collaboratively to minimise duplication, and to ensure all corporate parents have opportunities to fulfil their corporate parenting responsibilities (section 58).

149. The corporate parenting outcomes chosen by each corporate parent will also be shaped by their other functions, and the public policy area in which they primarily operate.

## REFERENCES TO 'WELLBEING' IN PART 9

150. Section 58 (1)(a) of the Act requires that every corporate parent, in so far as consistent with the proper exercise of its other functions, be alert to matters which, or which might, adversely affect the wellbeing of children and young people to whom Part 9 applies. Section 58(1)(d) states that another duty of every corporate parent is to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing. Section 58 therefore requires each corporate parent to have cognisance of 'wellbeing', as described in section 96 of the Act.
151. The Act also specifies that corporate parents must, in so far as reasonably practicable, collaborate with each other when exercising their corporate parenting responsibilities and other functions under Part 9 of the Act, where they consider doing so would safeguard or promote the wellbeing of children and young people to whom Part 9 applies (section 60(1)). Section 60(2) specifies the forms that this collaboration may take.
152. The provisions in Part 9, and in particular, those contained in section 59, are thematically linked to children's services planning, as covered in Part 3 of the Act. Corporate parents listed in schedule 4 should ensure they create a culture where wellbeing is understood in the context of sections 95 and 96 of the Act, specifically in relation to looked after children and care leavers.

### **Assessment of wellbeing**

153. Section 96(2) describes the wellbeing of children and young people in terms of eight indicators. These eight wellbeing indicators are sometimes known collectively by the acronym 'SHANARRI'. For further details on the wellbeing indicators please review the chapter 'Definition of Terms' above.
154. Whenever wellbeing is assessed it should be done in relation to the eight wellbeing indicators. Corporate parenting actions should be directed towards safeguarding or promoting a child or young person's wellbeing in any one or

number of these areas. An explanation of how to assess wellbeing using the eight indicators can be found on the [GIRFEC pages of the Scottish Government website](#), and in the [GIRFEC National Practice Guide](#) (2012). Further guidance on wellbeing (as set out in section 96) will be issued by the Scottish Government; corporate parents should have regard to any such guidance when assessing the wellbeing of a looked after child or care leaver.

155. Please note that (as discussed on pages 25-28 above) the majority of children and young people covered by Part 9 will, by virtue of being a looked after child or care leaver, already have been assessed using the [National Practice Model](#), and their wellbeing needs recorded in a Child's Plan (or equivalent for young people aged 18 and above). These are statutory processes governed by primary and secondary legislation outside of Part 9. In this context, for most corporate parents the reality of 'assessment' will be working with the child/young person, carers and relevant professionals to identify if wellbeing needs (as recorded in the Child's Plan, or equivalent) can be met through the opportunities, services or support provided by the corporate parent. The exceptions to this will be those organisations who are responsible, under Parts 4 and 5 of the Act, for contributing to the development of a Child's Plan in the first instance.

## **INTERACTION BETWEEN CORPORATE PARENTS AND THOSE WITH PARENTAL RIGHTS AND RESPONSIBILITIES**

156. In fulfilling their duties under Part 9 of the Act, corporate parents should consider how they interact with individuals who have parental rights and responsibilities in respect of a child or young person.
157. Although children can become ‘looked after’ through a variety of legal routes (and for a number of reasons), in the majority of cases birth parents will retain parental rights and responsibilities for their children, in partnership with the state. Corporate parents should recognise the existence of certain legal rights of birth parents and children under Scots law, and, where appropriate, consider how they will interact with birth parents and families.
158. When a child becomes looked after as a result of a voluntary agreement (under section 25 of the Children (Scotland) Act 1995) parents retain their parental responsibilities and rights in respect of their child. Parental responsibilities and rights are set out in sections 1 and 2 of the [Children \(Scotland\) Act 1995](#).
159. For looked after children who are subject to a Compulsory Supervision Order (CSO) made by a Children’s Hearing, parental rights and responsibilities are also maintained, but are limited in so far as it is necessary to give effect to the CSO. For example, where a condition of residence with foster carers or in a residential unit is attached to a CSO, the local authority assumes the right to determine with whom the child is placed, to the extent of the terms of the CSO. The parents’ specific right under section 2(1)(a) of the Children (Scotland) Act 1995, “to have the child living with him or otherwise to regulate the child’s residence” is restricted accordingly.
160. When a Permanence Order is in place, the Order will reallocate certain parental rights and responsibilities to the local authority (always including the right to regulate residence). It is necessary to look at the terms of a Permanence Order to see how the court has allocated parental rights and responsibilities in any particular case. It follows that, for every looked after child, corporate parents



need to recognise the responsibilities and rights the parent (or other family carer) retains in respect of their child. There must be recognition of the role of parents and carers, and corporate parents should work together with primary carers to meet the needs and rights of the child.

## COMPLAINTS AND DISPUTES

161. To fulfil the duty to be alert to matters which, or which might, adversely affect the wellbeing of looked after children and young people (section 58(1)(a)), and to identify actions necessary for improving the way it exercises its corporate parenting functions, every corporate parent should have a procedure through which looked after children and care leavers can raise a concern or make a complaint. These concerns or complaints may relate to the quality, or absence, of an opportunity, service or support, or other aspects of how a corporate parent has fulfilled their duties under Part 9.
162. Wherever practical and appropriate corporate parents should try to resolve a child or young person's complaint or concern through informal processes. This will rely on children and young people (with the support of their carers or other advocates) engaging in a dialogue with representatives from the corporate parent.
163. Where dialogue has not been successful, formal complaint procedure may be necessary. The Act does not prescribe a specific form of complaint procedure for corporate parents; where appropriate, corporate parents should use procedures already in place. Corporate parents should also ensure that all looked after children and care leavers are aware of the available complaint procedure(s), and that the procedures are accessible (e.g. in an age appropriate format) for the eligible population. For some children and young people (including younger children and those with communication difficulties) corporate parents should make provision for their views to be represented by carers, trusted adults and independent advocates.
164. Where a dispute occurs between corporate parents, resolution should be sought through dialogue and collaboration. This guidance has, where relevant, stated the lines of responsibility and accountability in respect to the delivery of services and support for looked after children and young people. However it is the responsibility of all corporate parents to resolve, proactively and in

collaboration, any disputes over how activities (in the exercise of Part 9 functions) are fulfilled or provided. Where it is not possible to resolve a dispute between corporate parents through collaboration, further guidance or direction may be sought from Scottish Ministers.

165. For those corporate parents involved in delivering functions under Part 1 (Children's Rights), Part 3 (Children's Services Planning), Part 4 (Named Person), Part 5 (Child's Plan), Part 6 (Early Learning and Childcare), Part 10 (Aftercare), Part 11 (Continuing Care) and Part 13 (Support for kinship care) of the Act, regard should be given to the relevant guidance made available from the Scottish Government.

## **ENFORCEMENT OF PART 9 (CORPORATE PARENTING)**

166. Part 9 (corporate parenting) comes into force on 1 April 2015. Corporate parent's compliance with the legislation will be monitored through the review of corporate parenting reports (by Scottish Ministers), independent inspection mechanisms (such as those provided by the Care Inspectorate, Education Scotland, Healthcare Improvement Scotland and Her Majesty's Inspector of Constabulary in Scotland) and corporate parents' existing governance arrangements (such as councillors, parliamentarians and non-executive board members).
167. Scottish Ministers have the power, under section 64, to issue directions to corporate parents in relation how they exercise their corporate parenting responsibilities and other functions under Part 9 of the Act (please see chapter on section 64 above). The corporate parents to whom the direction applies must comply with it. The issuing of directions by Scottish Ministers may be used, where necessary, to ensure compliance with Part 9 of the Act.

## APPENDIX A: LEGAL FRAMEWORK

168. The [Children and Young People \(Scotland\) Act 2014](#) is a significant piece of legislation, introducing major changes to planning, operation and delivery of children's services in Scotland. The Act is particularly important for looked after children and care leavers, putting 'corporate parenting' (Part 9) onto a statutory footing, extending 'aftercare' support to a wider population of care leavers (Part 10) and introducing a new provision of 'continuing care' for some care leavers (Part 11). The Act also requires all adoption agencies to use Scotland's Adoption Register (Part 14), and amends the Children (Scotland) Act 1995 to ensure assessments consider a child or young person's 'wellbeing' (section 95).
169. However it is important to view the Act in the wider legislative context, for the Act in places adds to or amends previous statutes, rather than replacing them. The [Children \(Scotland\) Act 1995](#) (the 1995 Act) continues to provide the legal framework for 'looked after children' and 'care leavers' in Scotland. The duties, powers and responsibilities of local authorities are set out across sections 17 - 31 of the 1995 Act (as amended by subsequent legislation). Section 21 sets out the co-operation required from other bodies, to enable the local authority to exercise their functions. The accompanying guidance, [Children \(Scotland\) Act 1995 Guidance and Regulations Volume 2: Children Looked After by Local Authorities](#) (published 1997) provides a detailed and comprehensive overview on how local authorities and other public bodies should meet these requirements.
170. The [Regulation of Care \(Scotland\) Act 2001](#) amends section 29 ('Aftercare') of the 1995 Act, requiring local authorities to conduct an assessment of looked after children who they have a duty or power to advise, support or assist. It also requires local authorities to establish a procedure for considering representations, including complaints, on the discharge of their 'aftercare' duties. The [Support and Assistance of Young People Leaving Care \(Scotland\) Regulations 2003](#) (as amended, most recently by [S.S.I. 2015/62](#)) describes the processes (such as completion and review of the 'pathway plan') which local

authorities must follow when preparing a looked young person who is leaving care. Detailed guidance on these rules is available [Supporting Young People Leaving Care in Scotland: Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities](#) (March 2004). The Scottish Government will also new issue guidance to reflect the changes set out in Parts 9, 10 & 11 of the Children and Young People (Scotland) Act 2014.

171. The [Adoption and Children \(Scotland\) Act 2007](#) updated the adoption process in Scotland, and introduced the Permanence Order. Detailed guidance on these changes is available: [Guidance on the Looked After Children \(Scotland\) Regulations 2009 and Adoption and Children \(Scotland\) Act 2007](#) (published in March 2011).
172. The [Looked After Children \(Scotland\) Regulations 2009](#) prescribes a child or young person's journey into care and through care, differentiated by the placement type (i.e. 'at home', kinship, residential, etc.). The regulations require all looked after children to have a 'child's plan' (sometimes referred to in practice as a 'care plan'), and for children to be actively involved (depending on their age and maturity) in the development and monitoring of that plan. Detailed guidance on these processes is available: [Guidance on the Looked After Children \(Scotland\) Regulations 2009 and Adoption and Children \(Scotland\) Act 2007](#) (published in March 2011). Legislation to be made under Part 5 of the Act will require that all planning for looked after children, as set out in the 2009 Regulations, takes place within the framework of the Child's Plan prepared under Part 5.
173. The [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (as amended by an act of the same title passed in 2009) provides the legal framework for supporting children and young people (including their families) who require additional services to make the most of their school education. Under this legislation all looked after children are automatically deemed to have additional support needs, unless the education authority has assessed the child or young person as not needing additional support to benefit from school education. In addition, an education authority must consider whether every

looked after child (for whose school education they are responsible) requires a Coordinated Support Plan. Independent advice and guidance on this legislation is available from [Enquire](#).

174. The [Children's Hearings \(Scotland\) Act 2011](#) made significant changes to the Children's Hearings system, introducing a central authority (Children's Hearings Scotland) and a National Convener. The role of the Scottish Children's Reporter Administration (SCRA) in support of children's hearings was amended, and changes were also made to the legal orders available to a Children's Hearing. Guidance on these changes is available in the [Training Resource Manual \(Volume 1\) Legislation and Procedures](#) (published in March 2013).

175. Other legislation relevant to looked after children and care leavers in Scotland includes:

- [Social Work \(Scotland\) Act 1968](#)
- [Human Rights Act 1998](#)
- [Data Protection Act 1998](#)
- [Children \(Leaving Care\) Act 2000](#)
- [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)
- [Local Government in Scotland Act 2003](#)
- [Protection of Vulnerable Groups \(Scotland\) Act 2007](#)
- [Equality Act 2010](#)
- [Social Care \(Self-Directed Support\) \(Scotland\) 2013](#)
- [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#)

## APPENDIX B: POLICY CONTEXT

176. From the 1990s there has been a growing interest, across the United Kingdom, in the concept of 'corporate parenting' for looked after children and care leavers'. This has been in recognition of the persistently poor outcomes experienced by this group, and the legal and moral responsibilities of the state to support children who have experienced adversity. This includes enhancing children's quality of life, as well as simply keeping them safe.
177. Given real impetus by the UK government's Quality Protects programme (launched in 1998), corporate parenting began to take on a more defined shape, with policy and guidance prescribing certain actions for public bodies beyond local authority children's services. The Every Child Matters agenda, in particular, emphasised the obligation of public bodies to work together to improve outcomes for looked after children and care leavers, on the basis of their shared duties as 'corporate parents'. But while documents such as *If this were my child - A guide for councillors*<sup>13</sup> (2003) and *Learning with Care* (2001)<sup>14</sup> were made increasingly available, a 2006 report from the Social Work Inspection Agency found that, in Scotland, the concept was still not sufficiently understood or applied, and that as a result children were not enjoying the benefits that corporate parenting promised.<sup>15</sup>
178. In 2007 the Scottish Government published the conclusions of a Ministerial Working Group which had been set up to examine how to improve the educational outcomes of looked after children. In [We Can and Must Do Better](#), this working group highlighted the critical importance of the corporate parent role: 'It is essential that the individuals and agencies who form the corporate

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<sup>13</sup> Department for Education and Skills (2003) [If this were my child ... A Councillor's guide to being a good corporate parent](#), London

<sup>14</sup> Her Majesty's Inspectorate of Education & Social Work Services Inspectorate (2003) [Learning with Care](#), Glasgow

<sup>15</sup> Social Work Inspection Agency (2006) [Extraordinary Lives: Creating a positive future for looked after children and young people in Scotland](#), Edinburgh, p.96



parent for Scotland's looked after children and young people are more aware and alert to their children's needs and work together to deliver for them'.<sup>16</sup>

179. Responding to the report's recommendations, the Scottish Government and Scottish local authorities published [These Are Our Bairns: A guide for community planning partnerships on being a good corporate parent](#) (2008). This provided corporate parents with a guide to their roles and responsibilities, and highlighted the opportunities for improving children's wellbeing within the many services delivered by community planning partners, and the wider community. Councils, in particular, have successfully used this guidance to develop local action plans and protocols, bringing looked after children and young people into conversations with elected members and senior managers to consider how services can be proactive, and make a difference in children's lives.
180. Subsequent developments in Scotland served to underline the importance of corporate parenting across schools and health. The 2009 amendment of the Education (Additional Support for Learning) Scotland Act 2004, which required education authorities to consider all looked after children as having additional support needs unless assessed otherwise, attempts to address the fact that this population often has a disrupted educational experience and significant additional needs, but not always the advocates to obtain the necessary additional support. Also in 2009, the Chief Executives of Scotland's NHS Boards received a letter from the Scottish Government's Director of Healthcare Policy and Strategy, requiring each health board to undertake a number of specific actions in relation to looked after children.<sup>17</sup> In 2014 the Scottish Government published [Guidance on Health Assessments for Looked after Children and Young People](#), for all NHS health boards. This stated clearly that: 'as a corporate parent, NHS Boards should view the looked after children's health assessment as an opportunity to assess an individual's overall health

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<sup>16</sup> Scottish Government (January 2007) [Looked After Children and Young People: We Can and Must Do Better](#), Edinburgh, p.7

<sup>17</sup> Scottish Government (2009) [CEL 16 \(2009\)](#), Edinburgh

and wellbeing, including behavioural and emotional development and risk taking behaviour'.<sup>18</sup>

181. The Children and Young People (Scotland) Act 2014, and this accompanying guidance, represent the next step in the ongoing development of corporate parenting in Scotland. The range of corporate parents has been extended and the duties formalised, but the objective remains the same: to take whatever actions are necessary to promote and support the physical, emotional, spiritual, social and educational development of a looked after child or care leaver, from their infancy through to adulthood.

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<sup>18</sup> Scottish Government (2014) [Guidance on Health Assessment for Looked After Children and Young People in Scotland](#), Edinburgh, p.1

## APPENDIX C: FURTHER INFORMATION

182. For further information on corporate parenting, looked after children, care leavers, and children's rights, please review the resources listed below.

HMIe (2009) [How Good is Our Corporate Parenting: A self-evaluation guide](http://www.educationscotland.gov.uk/Images/ischgiocp_tcm4-712894.pdf) www.educationscotland.gov.uk/Images/ischgiocp\_tcm4-712894.pdf

Improvement Service (2012) [Notebook 5: Roles and Responsibilities at Council Level](http://www.improvementservice.org.uk/assets/em-notebook-5---cosla_web.pdf) [http://www.improvementservice.org.uk/assets/em-notebook-5---cosla\_web.pdf]

Local Government Association (2012) [Council Resource Pack](http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10180/3574530/PUBLICATION) [www.local.gov.uk/web/guest/publications/-/journal\_content/56/10180/3574530/PUBLICATION]

National Care Advisory Service (online) [Corporate Parenting](http://leavingcare.org/corporateparenting_home) [http://leavingcare.org/corporateparenting\_home]

National Children's Bureau (online) [Corporate Parenting Tool Kit](http://www.ncb.org.uk/corporate-parenting/resources/corporate-parenting-tool-kit) [www.ncb.org.uk/corporate-parenting/resources/corporate-parenting-tool-kit]

Ofsted (2012) [Good Practice Resource: Developing effective corporate parenting](http://www.ofsted.gov.uk/resources/good-practice-resource-developing-effective-corporate-parenting-london-borough-of-lambeth) [www.ofsted.gov.uk/resources/good-practice-resource-developing-effective-corporate-parenting-london-borough-of-lambeth]

Scotland's Commissioner for Children and Young People (online) [Participation](http://www.sccyp.org.uk/publications/participation) [www.sccyp.org.uk/publications/participation] & [Rights](http://www.sccyp.org.uk/rights) [www.sccyp.org.uk/rights]

Scottish Government (online) [Corporate Parenting](#)

[[www.scotland.gov.uk/Topics/People/Young-People/protecting/lac/lacimprovingoutcomes/corporate-parenting](http://www.scotland.gov.uk/Topics/People/Young-People/protecting/lac/lacimprovingoutcomes/corporate-parenting)]

Scottish Government & Centre for Excellence for Looked After Children in Scotland (online) [We Can and Must Do Better: Resource Bank](#)

[[www.wecanandmustdobetter.org/](http://www.wecanandmustdobetter.org/)]

Scottish Government & Convention of Scottish Local Authorities (2008)

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[[www.unicef.org/crc/](http://www.unicef.org/crc/)]

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Who Cares? Scotland (online) [Corporate Parenting](#)

[[www.corporateparenting.co.uk](http://www.corporateparenting.co.uk)]

Who Cares? Scotland (2014) [Interpreting the Children and Young People Act 2014: Care Experienced Young People's Views](#)

[[www.corporateparenting.co.uk/download/training/f\\_54e3706f9eb74/](http://www.corporateparenting.co.uk/download/training/f_54e3706f9eb74/)]

183. There are also organisations available that may be able to assist corporate parents with implementation of Part 9. The names and websites of these organisations are listed below.

[CEL CIS](http://www.celcis.org) (Centre for Excellence for Looked After Children in Scotland)  
[www.celcis.org]

[SCCYP](http://www.sccyp.org.uk) (Scotland's Commissioner for Children and Young People)  
[www.sccyp.org.uk]

[Who Cares? Scotland](http://www.whocarescotland.org) [www.whocarescotland.org]



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