



**mental welfare**  
commission for scotland

# **Corporate parenting plan 2024-27**

Corporate document

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October 2024



# Our mission and purpose

## Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

## Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

## Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

## Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

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## Introduction

This is the Mental Welfare Commission's third corporate parenting plan. It describes what we have been doing between April 2021 and March 2024 in relation to our corporate parenting duties and lays out our plans for the next three years between April 2024 and March 2027.

In 2015 we were made a corporate parent under the Children and Young People (Scotland) Act 2014 (the Children and Young People Act).<sup>1</sup> Together with 26 other named organisations in Scotland, we were made corporate parents and given specific responsibilities towards children and young people up to the age of 26 years who are or have been 'looked after' or care experienced<sup>2</sup>.

At its most simple, the role of a corporate parent is intended to improve and promote the wellbeing of care experienced children and young people in Scotland and corporate parents do this within the existing roles of their particular organisation.

In the Children and Young People Act corporate parenting duties are described towards children and young people who are aged up to 26 years. However, Who Cares Scotland<sup>3</sup> advocates that corporate parents should follow these age cut-offs as a minimum requirement, recognising the fact that for some people the impact of care can be lifelong<sup>4</sup>.

Our corporate parenting responsibilities enhance our statutory duties to promote the rights and welfare of people from all backgrounds and of all ages who experience significant mental health difficulties and are subject to mental health and incapacity legislation in Scotland.

Additionally, these corporate parenting duties sit alongside our existing responsibilities to promote the rights of all children under the age of 18 as part of our everyday work.

Part of our corporate parenting duties involve reporting on our corporate parenting activities and making plans for future activity every three years.<sup>5</sup>

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<sup>1</sup> Scottish Government, Children and Young People (Scotland) Act 2014, Norwich, The Stationary Office, <http://www.legislation.gov.uk/asp/2014/8/contents/enacted>

<sup>2</sup> Section 57 of the Children and Young People (Scotland) Act 2014 defines a person who is considered 'looked after' and a 'care leaver' and this includes any child who is looked after by a local authority, and anyone who is under the age of 26 and has been looked after by a local authority. Although the law defines children and young people as 'looked after children' many of the children and young people themselves prefer the term 'care experienced' and so this term will be primarily used in this corporate parenting Plan<sup>2</sup>.

<sup>3</sup> Who Cares Scotland is a national voluntary organisation that works with children and young people in care and corporate parents in their statutory duties.

<sup>4</sup> <https://www.whocarescotland.org/wp-content/uploads/2023/10/Corporate-Parenting-Duties-An-Overview-Final.pdf>

<sup>5</sup> Sections 59-65 (inclusive) of the Act: provide detailed plans and reports periodically, to collaborate with one another in relation to corporate parenting duties, to follow directions and guidance from Scottish Ministers, and provide relevant information to Scottish Ministers in relation to their corporate parenting role.

Mental health legislation is used primarily in adults although the number of children aged 16 and 17, who have been treated with compulsory measures, has been increasing in recent years<sup>6</sup>.

From our work with children and young people we are aware of the increased and often complex mental health needs of care experienced children and young people<sup>7</sup>. We know that rates of self-harm and suicide, for example, are higher within the care experienced population.

Children under the age of 18 years make up approximately one fifth of the Scottish population<sup>8</sup> and children and young people who are care experienced or eligible for after care has never exceeded 0.5% of the total Scottish population<sup>9</sup> <sup>10</sup>. Despite this small percentage overall, we have found that people who are care experienced feature frequently in our everyday work.

We are also aware that at times different pieces of legislation relating to children and young people are sometimes confusing when they work closely together.

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<sup>6</sup> [www.mwscot.org.uk/sites/default/files/2020-10/YoungPeopleDetainedUndertheMentalHealthAct\\_October2020.pdf](http://www.mwscot.org.uk/sites/default/files/2020-10/YoungPeopleDetainedUndertheMentalHealthAct_October2020.pdf)

<sup>7</sup> <https://search.app/R7nnbFGRBtz5wDT9>

<sup>8</sup> 2023 National Records of Scotland Scotland's population: [Mid-2022 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/publications/mid-2022-population-estimates-scotland)

<sup>9</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') Cited in [www.gov.scot/publications/statutory-guidance-part-9-corporate-parenting-children-young-people-scotland/pages/23/](http://www.gov.scot/publications/statutory-guidance-part-9-corporate-parenting-children-young-people-scotland/pages/23/)

<sup>10</sup> [Children's Social Work Statistics 2022-23 – Looked After Children - gov.scot \(www.gov.scot\)](http://www.gov.scot/publications/children-social-work-statistics-2022-23-looked-after-children/pages/1/)

## Who is the Mental Welfare Commission and what do we do?

We are a small, independent organisation and our duties are set out in current mental health and incapacity law. Scotland has two main pieces of mental health or incapacity legislation. One is the Mental Health (Care and Treatment) (Scotland) Act 2003 (the Mental Health Act) and this can be used in people of all ages including children. The other is the Adults with Incapacity Act (Scotland) 2000 (AWI Act) which can be used with people who are aged 16 years or older.

Sometimes people can become too unwell to be able to provide consent for treatment of their mental health difficulties and sometimes people are not able to make decisions about matters that affect their lives. When this happens, mental health legislation can be used in strict circumstances to allow other people to make decisions for individuals instead.

Our role is to make sure that these actions are legal, ethical and follow the principles that should guide the use of mental health legislation in Scotland.

Our focus is always on trying to safeguard the rights and welfare of people with mental illness, learning disability or other mental health conditions, especially those who are vulnerable and less able to safeguard their own interests and make decisions about their care, treatment and support.

We draw on our experience of health, social work and social care, and the experience of individuals, families and carers in order to do this.

We work with services and organisations that provide care, treatment and support to children and young people as well as adults. By doing this we ensure that children's rights are protected and promoted.

**We carry out our duties by focussing on five main areas of work.** These are:

- **visiting people**- we visit people in many different settings and listen to their views about their care and treatment. We produce reports on our visits so that services can learn from our findings and improve patient care.
- **monitoring** the use of mental health law. We check the paperwork we receive and act on any difficulties if we have concerns. We regularly analyse and report on the use of the Mental Health Act and AWI Act across Scotland and identify trends in how the acts are being used.
- **investigations** - where we believe a person may not be receiving the right care and treatment we may make enquiries into their care or undertake a full investigation. We are particularly interested in cases where there may be learning for professionals and services across the country to try and avoid the same mistakes happening again. We report on our findings from full investigations.
- **providing information and advice** - we give advice about best practice in the use of mental health law. Our website contains a lot of information for individuals, patients and professionals. We also have a telephone advice line which is available within office hours on weekdays and is free of charge.
- **influencing and challenging** others to improve people's rights- Sometimes we highlight mistakes and ask clinicians to learn from them. At other times we use our unique overview of mental health and learning disability services to help Scottish Ministers and strategic leaders to shape policy. By doing this we try to help services develop so that they can safeguard people's rights and improve the care and treatment for people with mental illness, learning disability and related conditions.

## **What does it mean to be a corporate parent?**

The introduction of the role of corporate parents grew from an increasing awareness of the challenges that many care experienced people face and a recognition that improving people's lives cannot be achieved by one organisation alone; only by different organisations working together and having a specific focus on the needs of care experienced people as part of their existing duties can improvements be made to people's lives in a meaningful way.

The Children and Young People Act defined the duties of a corporate parent broadly<sup>11</sup>. This in part reflected the breadth of activity and areas of responsibility of Scotland's different corporate parents. At the same time, however, the Children and

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<sup>11</sup> 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." Scottish Government, Children and Young People (Scotland) Act 2014: Statutory Guidance on Part 9: corporate parenting, Edinburgh, APS Group Scotland. Adapted from Sonia Jackson's definition of parenting presented in M. Davis (ed) (2000) The Blackwell Encyclopaedia of Social Work, Oxford, Blackwell and cited in the Scottish Government

Young People Act also provided a framework so that each corporate parent can establish what corporate parenting duties mean for their particular organisation and remain relevant as the organisation grows and develops in its corporate parenting duties and activity.

The Children and Young People Act states that in relation to care experienced children and young people and consistent with the Commission's role and duties, we must:

- be **alert** to issues which, or which might, adversely affect the wellbeing of an eligible child or young person;
- **assess** the needs of eligible children and young people for any services or support provided;
- **promote** the interests of eligible children and young people;
- seek to provide eligible children and young people with **opportunities** to promote their wellbeing and **take appropriate action** to support eligible children and young people access these opportunities;
- keep our approach to corporate parenting under **constant review** and **seek improvement** wherever possible.

We recognise that corporate parenting duties should be delivered collectively as an organisation and should not be seen as only the responsibility of a single post holder or group within the Commission.



## How did we write this report?

Since the publication of our *Corporate parenting action plan 2021-2024* we have been periodically updating our activities against the plan and share these across the governance structures within the Commission. This activity helped us to think about what was helpful and working well in our corporate parenting plan and what was not.

We also looked at a number of published plans of other corporate parents and thought about how these organisations had responded to their corporate parenting duties and how they had structured their reports and presented their information.

We listened to other corporate parents during the collaborative corporate parenting meetings and learned from them about their approach and experience in their duties.

We reviewed the guidance on *How to Write a Great Corporate Parenting Report* prepared by Who Cares Scotland and considered how to use the advice for this report<sup>12</sup>. As suggested, we thought about who the report was for and initially decided to write a report that was for both young people and adults.

A clear ambition from our previous reports involved consultation with young people at an early stage in the writing and development of our corporate parenting plan. We listened to the feedback from young people at the time of writing our 2021-24 report and took on board the fact that they wanted to be involved from the very beginning of the drafting of the report and future planning.

For this report we got in touch with a number of children's rights officers and groups that we have worked with in the past. We met with Borders Additional Needs Group (BANG) who gave us very helpful feedback and shared their ideas about what they thought about an earlier draft of this report.

We listened to their feedback and changed our plans as a result: we are now intending to publish a separate report for young people that will be published in the next few months that will be shorter in length, have more graphics and provide less contextual information.

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<sup>12</sup> [How to create a great CP plan \(whocarescotland.org\)](https://www.whocarescotland.org)

## **What progress did we make towards our ambitions outlined in our *Corporate parenting action plan 2021-2024*?**

Over the timescale of the 2021-24 corporate parenting plan, Scotland was hugely affected by the impact of the Covid-19 pandemic, which resulted in lockdowns taking place across the country and the rest of the UK. This had a significant effect on our work and our ability to meet with people on visits was badly affected.

Our telephone advice line continued, however, and we developed guidance to support clinicians and services to deliver ethical and lawful care and treatment to people during such an extraordinary time, when normal established practice was not possible.

Whilst this work did not focus on care experienced children and young people specifically, anyone who was in hospital during lockdown or were subject to the mental health legislation is likely to have been affected by this work.

### **Progress around governance of our plan 2021-24**

The Commission's Board has overall responsibility for the Commission's delivery of its legal duties relating to corporate parenting. The executive director for social work is the Commission's lead for corporate parenting and is supported by other members of the Commission's executive leadership team who hold responsibility for different elements of the plan.

Members of the Commission's children and young people's group (CYP group) support the implementation of the plan and work to raise awareness of the plan across the organisation. Regular updates on the plan are provided at regular intervals to the executive leadership team and Board by members of the CYP group with updates provided usually quarterly.

Delivery of our corporate parenting duties are the responsibility of everyone working at the Commission and requires all parts of the organisation to understand these duties and for their activities to be co-ordinated and monitored.

To support this, since 2017 our business and strategic plans have consistently referenced our corporate parenting plan so that actions relating to our corporate parenting plan can have the structure and resources necessary for its delivery and can also influence strategic decision making within the Commission on an ongoing basis.

Next steps will include formalising the voice of representatives of children and young people through our stakeholder advisory group and the inclusion of young people in this role. This supports our ongoing consultation with children and young people which takes place at an operational level.

### **Next steps**

We will formalise the voice of representatives for children and young people through our stakeholder advisory group and/or through our engagement and participation work.

## **Specific ambitions 2021-24**

In our 2021-24 plan we laid out plans under four different themes:

1. We understand our duties as corporate parents which form an integral part of decision making in Commission priorities and activities.
2. We will continue to learn about the needs and the rights of care experienced children and young people and learn about how our work can support them.
3. We will promote the interests of care experienced children and young people in Commission work around mental health and will raise any concerns or views we have with relevant services and policy makers.
4. We will collaborate with other corporate parents and improve the way we collaborate with children and young people who are care experienced.

When we describe our work around these themes in the following pages it is important to remember that much of our work involves at least one theme and usually straddles a number.

### **Theme 1 review: We understand our duties as corporate parents which form an integral part of decision making on Commission priorities and activities.**

#### **What we did**

Over the past three years we have continued to develop our understanding of our role as corporate parents and tried to ensure that all aspects of our organisation understand our duties.

During this time period, many people have joined the Commission and we have realised that we need to ensure learning opportunities about corporate parenting are included on a rolling basis across the organisation.

In August 2021, we welcomed Who Cares Scotland to speak to us about corporate parenting and our corporate parenting plan. We learned about how the Covid-19 lockdown had affected the lives of many care experienced children and young people across Scotland and the impact that this was having on their lives and their development<sup>13</sup>.

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<sup>13</sup> [https://www.whocarescotland.org/wp-content/uploads/2022/07/Corporate-Parenting-COVID-19-Impact-summary\\_FINAL.pdf](https://www.whocarescotland.org/wp-content/uploads/2022/07/Corporate-Parenting-COVID-19-Impact-summary_FINAL.pdf)

In March 2023 Who Cares Scotland again came to speak to the Commission's Board to give them an update on their corporate parenting duties. Going forward, we want to increase learning opportunities for all Commission staff about updates for corporate parenting to be at least yearly.

As described in our 2021-24 plan we have been working on developing induction materials, and questions and answers (Qs and As) in relation to common questions about corporate parenting and children's rights and make them available to Commission staff across the organisation.

We have now completed a range of Qs and As and have identified a range of induction materials to support new colleagues learning about corporate parenting when they join the Commission.

Training on corporate parenting and our duties will become a standard part of our mandatory induction plan and will be provided for all new members of the Commission going forwards.

The work to continue development and updating of induction materials will continue. We also recognise the need for Commission staff to access child protection training on a regular basis and this will be introduced going forwards.

**Next steps:**

Update training on corporate parenting for staff at least yearly;

Training on corporate parenting to become part of our mandatory induction plan for all staff;

Child protection training for staff on an ongoing basis.

**Theme 2 review: We will continue to learn about the needs and the rights of care experienced children and young people and learn about how our work can support them.**

We are aware of two aspects to learning about the needs of care experienced children and young people: one relates to learning about the needs of groups of care experienced people from research and study findings, initiatives and reports.

An example of this took place in September 2023, when members of the CYP group met with representatives of The Promise, Scotland to learn about its work in supporting the lives of care experienced people across the country. This event was kindly facilitated by The Promise's lead at the Care Inspectorate and helped to update the CYP group about this important work and support our understanding of its ambitions to improve the lives of children and young people in care.

The other aspect of learning relates to individuals and from hearing about care experienced people's experiences from the people themselves. We will talk about the work we have been doing to improve our ability to seek the views of children and young people who are care experienced on what they think about our work going forwards in theme 4 when we talk about collaboration (page 25).

When describing the work we do with people, one difficulty that we have faced in reports such as these, in recent years, is that our data information system (IMP) is now reaching the end of its useful life. This has limited our ability to improve reporting of the information that we gather and to analyse the data that we have stored.

As a consequence, over the past couple of years we have been working hard to commission a new information management system that will allow us to record our work and extract information about our activity much more effectively.

We are planning to ensure the new system will have a 'care experience' indicator embedded into data collection to ensure that we can record, analyse and report more easily on our work with people who are care experienced across our range of activities.

This facility is important, not just so that we can report on data in reports like this one, but also so that we can properly analyse our data and identify patterns or themes that would be otherwise be difficult to spot.

Each year a key part of the Commission's work and resources goes towards our visit programme. We undertake a range of different types of visit each year. We visit people in hospital and in the community and we have introduced ways of gathering information in relation to care experienced people in hospitals as standard.

When we visit hospital services, we ask the ward manager specifically about those people who are care experienced so that we can meet with them if they wish and gather their views. We want to ensure that this practice remains firmly embedded in

our activity, including when we undertake other types of visit such as themed or monitoring visits.

Going forward, we are keen that the executive director for visits and the executive directors for monitoring and investigations have responsibilities to ensure that exploration of care experience remains a core factor in the planning and undertaking visits as part of the Commission visit programme.

To this end we are keen that recording care experience becomes a standard part of our enquiry and includes all care experienced people of whatever age as advocated by Who Cares Scotland.

Between April 2021 and March 2024, we undertook visits to 2414 people in hospital wards in Scotland to learn about their experience of care.

- We recorded that 147 of these people were care experienced (0.06%).
- In the under 25 age group, we visited 292 people and 40 (14%) of these young people told us that they were care experienced.
- In the under 18 age group, we visited 61 people and eight of these young people (13%) told us that they were care experienced.
- This data is likely to be an underestimation for a number of reasons.

In addition to visits to see people in hospital each year, we also undertake 'themed visits' where we meet with groups of people across the country and investigate an area where we have identified difficulties with care and treatment of care in more detail before publishing reports on our findings.

In our themed visit *Ending the Exclusion*, we looked into the care provided to people who experience both significant mental health problems and significant substance use. We wanted to see whether the measures currently in place for people with both mental ill health and a substance use problem in Scotland are effective.

- Although overall 426 people engaged with us as part of this visit either through consultations or questionnaires, we also interviewed 29 people all of whom were either aged 25 and older with significant mental health problems and a substance use problem.
- Five people told us that that were care experienced (17 %).

We made a number of recommendations in our report to Scottish Government, NHS Education for Scotland and to local health and social care partnerships all of which aimed to try and ensure that nationally driven policies and strategies are better translated in practice so that clinical practice becomes more holistic and comprehensive and able to support the wide-ranging needs of people with both mental health and substance use problems<sup>14</sup>.

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<sup>14</sup> [https://www.mwscot.org.uk/sites/default/files/2022-09/EndingTheExclusion\\_September2022.pdf](https://www.mwscot.org.uk/sites/default/files/2022-09/EndingTheExclusion_September2022.pdf)

Our themed visit to prisons *Mental Health Support in Scotland's Prisons 2021 - under served and under resourced* focussed on the care and treatment available for mental health difficulties for people who are in prison in Scotland.

We interviewed prisoners, prison officers, prison governors, carers or family members and the forensic psychiatrists involved in providing care to prisoners.

- We interviewed 107 prisoners themselves, all of whom were aged between 20 and 70 years.
- 38 people (36%) from across the age range told us that they were care experienced.
- Eight out of these 107 people (8%) were aged 25 and under, and five of these were also care experienced (63% of those prisoners we spoke to who were under the age of 25).

Our report found that, although there had been changes made to the structure and organisation of mental health care in prisons in the past ten years and, although there were pockets of good practice, we found that there had been little change in the actual outcomes for prisoners' mental health.

We made nine recommendations to the Scottish Prison Service and/or the NHS with a tenth recommendation to Scottish Government to monitor the delivery of these nine recommendations, working with services to support their delivery<sup>15</sup>.

Finally in our *Out of NHS Area Placements* themed visit we explored the circumstances of people aged over 18 years with mental ill health or learning disability whose care and treatment could not be provided in Scotland and who were looked after in services in other parts of the UK.

- We focussed on 59 of the 162 individuals from Scotland who are in this category and spoke with them and many of their family or carers.
- 10 of the 59 people in hospital we spoke to told us they were care experienced (17%).
- Seven out of the 59 people (12%) we spoke to were aged between 18 and 24 years old and six of them were care experienced (86% of the people we interviewed who were aged between 18 and 24 years old).
- 35 of the 59 (59%) people we spoke to were aged between 18 and 44, and nine were care experienced (26% of the people aged between 18 and 44 years).
- We found that the average stay for people in an out of area placement was eight years and many people spoke highly of the care they were receiving although being so far away from their home in Scotland was a difficulty for many.

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<sup>15</sup> [www.mwscot.org.uk/news/mental-health-services-scotlands-prisons-urgent-action-needed](http://www.mwscot.org.uk/news/mental-health-services-scotlands-prisons-urgent-action-needed)

In our report we made seven recommendations to Scottish Government and to NHS Boards to ensure that scrutiny and overview of people in out of area places is tightened, that plans to place people out of area and discharge people are sufficiently well made and that exploration of the need to develop regional units in Scotland as an alternative to placement in the rest of the UK should be explored<sup>16</sup>.

In addition to the hospital or themed visits we do, each year we also visit people who are placed on guardianship orders as part of the AWI Act. People on guardianship orders are people over the age of 16 years who do not have capacity to make decisions for themselves and their guardian is given powers by a court to make decisions for them instead.

Decisions can include things such as where they live, who they spend time with, handling finances, handling mail and correspondence. It can also mean powers to have medical treatment or have limits to the person's privacy or freedom in place to keep them safe.

- Between April 2021 and March 2024 we undertook 769 guardianship visits to people over the age of 16 years and met with them and talked to their family or carers and professionals involved in their care.
- We learned that 76 of the 769 (10%) of the people we visited on guardianship were care experienced.
- In the young people we visited who were aged 25 years and under, 18 out of 114 young people (16%) were care experienced.

When we have any concerns about the care received by people when we visit them on guardianship visits, we follow this up by writing to services and raising our concerns with them.

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<sup>16</sup> [www.mwscot.org.uk/news/out-nhs-area-placements-new-report-finds-positive-patient-experience-care-concerns-over](http://www.mwscot.org.uk/news/out-nhs-area-placements-new-report-finds-positive-patient-experience-care-concerns-over)



## Summary of visits 2021-24

### Local visits

- We visited **2414** people in hospital wards.
- We visited **292** people under 25 yrs in hospital wards.
- **14%** told us they were care experienced.
- We visited **61** people under 18 yrs in hospital wards.
- **13%** told us they were care experienced.

### Themed visits

***Ending the Exclusion*** explored the experience of people with substance misuse and significant mental health problems

- **426** people aged 25 yrs+ took part
- We spoke to **29** people
- **17%** told us they were care experienced.

### ***Mental Health Support in Prisons 2021 - under served and under resourced***

- We spoke to **107** prisoners aged between 20 yrs and 70 yrs
- **36%** told us they were care experienced
- **8** out of the **107** were aged under 25yrs
- **63%** of these people told us they were care experienced.

### ***Out of area placements***

- We interviewed **59** out of the **162** people who are placed in England for their care
- **17%** told us they were care experienced
- **7** out of the **59** were aged under 25 yrs
- **86%** told us they were care experienced
- The average stay for people placed in England for their needs was **8 years**.

### Guardianship visits

- We visited **769** people who are placed on guardianship orders
- **10%** told us they were care experienced across all age groups
- **16%** told us they were care experienced in those under the age of 25yrs.

We recognise that ensuring we ask about and record whether the people we talk to are care experienced is an essential first step in any work we do.

We also need to ensure that the needs of care experienced people are considered and included in any visit planning.

Who Cares Scotland has advocated that corporate parents should treat care experience as though it were a protected characteristic under the Equalities Act 2010<sup>17</sup>.

We are aware of other work to consider this across the UK<sup>18</sup> and in the future we are keen to find out from other corporate parents who have done this and learn about their experience and apply it to the Commission.

We also are aware that we need to be more confident that we ask about care experience in a way that is as sensitive and thoughtful as we can be.

Over the next three years and again as the new data information system is introduced, we want to undertake a specific piece of work looking at how we ask and find about care experience from the people we meet and how we record care experience in our files.

An important way in which we learn about the needs of people is through our monitoring work.

This activity gives us insight into practice that is affecting large groups of people in Scotland and helps to raise questions that we might take forward in future work or which might influence national policy or strategy.

Since 2005, the Mental Health Act has placed a duty on health boards to provide sufficient services and accommodation for young people up to the age of 18 who require inpatient treatment for their mental health difficulties<sup>19</sup>.

Admission of a young person under the age of 18 to a non-specialist setting is supposed to be an exceptional event<sup>20</sup>.

We have monitored the admission of young people to non-specialist settings, such as adult wards, and the care they are provided with for nearly twenty years.

In 2017, we began asking clinicians how many children and young people admitted to non-specialist settings were care experienced. Since then we have found that care experienced young people represent a substantial minority of children and young

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<sup>17</sup> <https://www.whocarescotland.org/wp-content/uploads/2022/07/Protected-Characteristics-and-Care-Experience-final-draft-5-Feb-2018.pdf>

<sup>18</sup> [www.childrenscommissioner.gov.uk/blog/should-care-experience-be-a-protected-characteristic/#:~:text=If%20care%20experience%20was%20made,of%20points%20have%20been%20made.](http://www.childrenscommissioner.gov.uk/blog/should-care-experience-be-a-protected-characteristic/#:~:text=If%20care%20experience%20was%20made,of%20points%20have%20been%20made.)

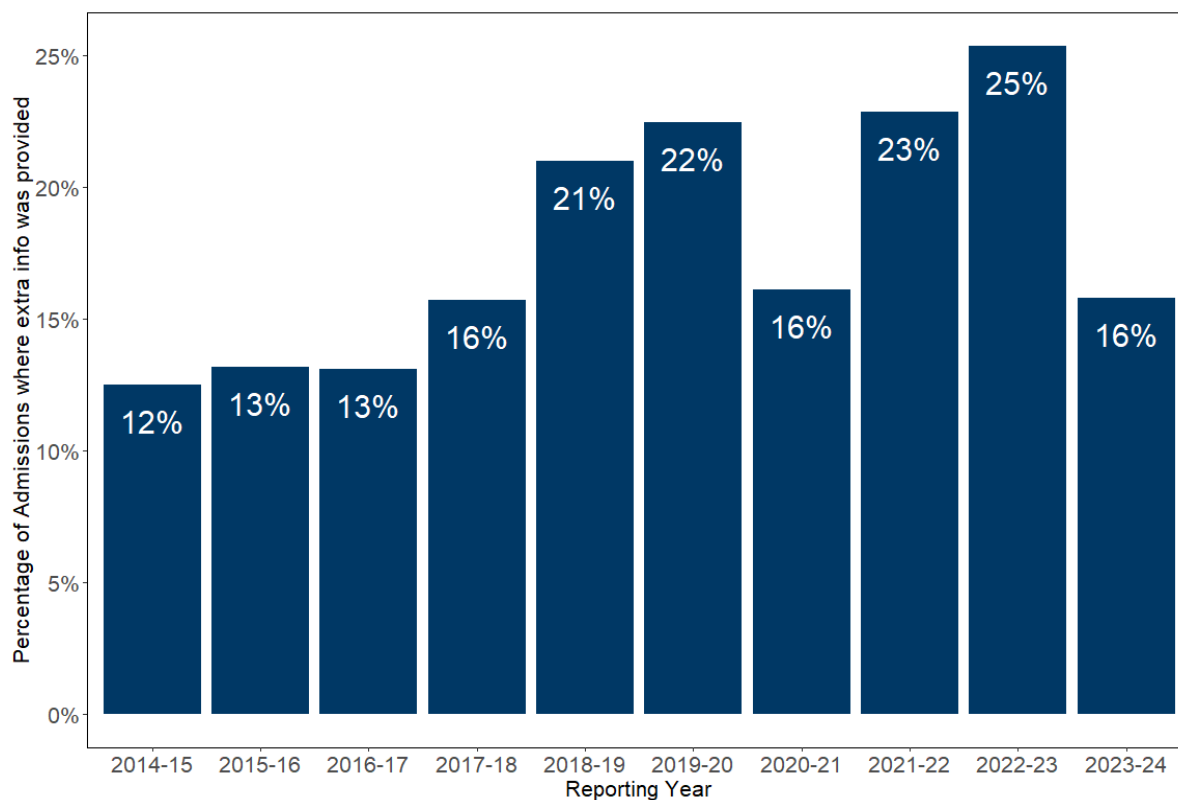
<sup>19</sup>

[https://www.legislation.gov.uk/asp/2003/13/section/23#:~:text=23Provision%20of%20services%20and%20accommodation%20for%20certain%20patients%20under%2018&text=\(b\)has%20been%20admitted%20to,that%20child%20or%20young%20person.](https://www.legislation.gov.uk/asp/2003/13/section/23#:~:text=23Provision%20of%20services%20and%20accommodation%20for%20certain%20patients%20under%2018&text=(b)has%20been%20admitted%20to,that%20child%20or%20young%20person.)

<sup>20</sup> [www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/2/](http://www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/2/) paragraph 50

people admitted to non-specialist wards for their mental health and our latest figures from the 2022-23 report are shown below<sup>21</sup>.

**Admissions involving looked-after and accommodated young people 2014-15 to 2023-24 (where the Commission received extra information about the admission)**



We have raised our concerns with Scottish Government for many years about the lack of various specialist inpatient services for young people in Scotland.

Focus on this area remains especially important as plans are now being made to increase specialist hospital places for children and young people and it will be important that there is clarity about admission policies for children and young people to make sure that any future services are able to work collaboratively with one another in a joined up fashion and thereby meet the needs of the young people.

Currently the Commission handles a lot of information and data about individuals in Scotland.

Some of the forms that we use can be easily adjusted by ourselves to include enquiries about care experience when appropriate. Examples might include the request form that consultants in charge of a person's care complete to arrange a

<sup>21</sup> <https://www.mwscot.org.uk/sites/default/files/2023-11/ChildrenYoungPeople-MonitoringReport2023.pdf>

second opinion doctor to come and visit someone as part of the Mental Health Act or the adults with incapacity act.

Other forms, for example the Mental Health Act forms are under the control of Scottish Government and periodically we feedback our experience as these forms are developed and changed over time.

Going forwards we would like to undertake a specific piece of work exploring whether and how care experience might be included in the forms that we regularly use and handle including future consideration of whether care experience might be included in mental health act forms and the other statutory forms that the Commission handles.

Finally, our website and our telephone advice line is an important way in which we ensure that our services are accessible to children and young people who are care experienced.

We have a lot of information on our website which is freely available for individuals, carers and professionals and we also provide a free telephone advice line which responds to calls in office hours on a daily basis during the week.

We reviewed the telephone advice line in 2021-22 and identified organisations that work with children and young people who might find it helpful. We wrote to these organisations advertising our advice line and what it can offer and asked that they share the information with children and young people and their families. We see this as an ongoing need to continue to advertise the advice line at regular intervals.

Going forward, we need to make progress with developing a communication strategy for our work to ensure that children and young people have access to our resources that are relevant for them.

This applies for all children and young people, for those who are care experienced children and young people and for those who are not. We now have a communications officer in post whose role is to lead on increasing access to our resources for people and we are progressing the development of a communications strategy which will involve the feedback of children and young people about what should be prioritised.

Additionally, we are aware that we need also to ensure that our complaints process too is sufficiently child friendly to ensure that children and young people are able to feedback on their experience of contact with ourselves.

### **Next steps:**

The Executive leads for Visits, Investigations and Monitoring will have responsibilities to ensure that exploration of care experience remains a core factor within investigations and the planning and undertaking visits as part of the Commission visit programme. Distinct age ranges to guide data collection should include those 25 years and under and 17 years and under.

We will undertake specific work to explore how we should best capture and record care experience including whether we should treat care experience as a protected characteristic;

We will undertake specific work to explore how we best should ask about care experience with the people we meet;

We will undertake specific work to explore how best to adapt the forms that we use and handle to include care experience when appropriate;

We will introduce a new information system and explore of how to capture care experience as part of our telephone advice line and investigations work;

We will develop a communication strategy to explore how children and young people are better able to access our resources involving consultation with children and young people;

We will review our complaints process to make sure that it is child friendly and accessible.

### **Theme 3: We will promote the interests of care experienced children and young people in Commission work around mental health and will raise any concerns or views we have with relevant services and policy makers**

In addition to the instances we have already described above we do this in a number of ways.

We remain engaged with national work relating to the mental health for children and young people and continue to be active participants in groups and networks which work to improve the ways services can best respond to the mental health needs of children and young people some of whom may be care experienced.

We have been developing memoranda of understanding between a number of organisations including the Care Inspectorate and Health Improvement Scotland and collaborate with these organisations to improve care for people by sharing intelligence about matters of concern on an ongoing basis.

In the future we are also keen to develop a memorandum of understanding with the Children's Commissioner (Scotland) to support our mutual duties around children's rights relating to mental health care and treatment.

Over the past three years we have also contributed to a number of consultations. These have included the consultation relating to the National Care Service in November 2022 in which we raised concerns about the lack of inclusion of children's services in the proposed NCS.<sup>22</sup>

Additionally the CYP group met with representatives of the Reimagining Secure Care review team set up by Scottish Government to review Secure Care provision in Scotland in June 2023. In this meeting we shared our experience of some of the challenges relating to the interface between secure care and hospital inpatient treatment for young people.

Differences in perspectives and frameworks of understanding together with differences in legislation and the cultures around use of legislation is an overlooked area of difficulty we recognise on a regular basis.

We also made substantial contributions to the consultation and work of the Scottish Mental Health Act Review who published their final report in Autumn 2022<sup>23</sup>. A clear area of concern for the Review team was how systems respond to children and young people presenting in crisis.

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<sup>22</sup> [https://www.mwscot.org.uk/sites/default/files/2022-11/NCS\\_ConsultationResponse\\_Nov2022.pdf](https://www.mwscot.org.uk/sites/default/files/2022-11/NCS_ConsultationResponse_Nov2022.pdf)

<sup>23</sup> <https://webarchive.nrscotland.gov.uk/20230327160310/https://cms.mentalhealthlawreview.scot/wp-content/uploads/2022/09/SMHLR-FINAL-Report-.pdf>

The Review team believed that the response to the difficulties of a young person were too heavily influenced by the type of professional in contact with any young person and that this was unhelpful.

The Review recommended that children and young people should be removed from the Mental Health Act and that a single piece of legislation should be developed that would respond to all of the needs of children and young people rather than having different legislation that reflected care needs but not mental health needs for example.

We thought this view put forward by the review team did not take into account sufficiently the reality of severe mental illness in children and young people and the need for young people to be able to benefit from mental health legislation that had been developed and refined over decades.

We were also very concerned at the dangers that this recommendation would introduce by additional transitions between children's and adult mental health services as the young person matured which already is recognised as a time of heightened risk for young people.

We explained this in our response to the review<sup>24</sup>. We did, however, agree with the Review's suggestions that further work was needed to explore the interfaces of the various pieces of legislation that affect children and young people to ensure that any gaps are properly identified and remedied.

We think this work should include not just the pieces of legislation themselves but also the practice and culture that has developed around the use of legislation. We also have some concerns about the interface between the Mental Health Act and children's /child protection legislation more generally.

We agree with the Review's assessment relating to difficulties identifying a place of safety for young people who are at risk of harm and the need to ensure that alternatives to admission to mental health wards are available in a manner that is able to respond to the emergency nature of many presentations.

We recognise this is an area where more work needs to be done and does not serve the needs of young people well at present and agree with this recommendation.

In the past three years we also responded to the consultation of the Children (Care and Justice) Bill in relation to the use of hospital directions in the under 18s and also to the consultation on the use of physical intervention in school guidance.

We responded to the consultation on the mental health strategy in 2023-25 and we are presently in the process of writing our response to consultation relating to the

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<sup>24</sup> [www.mwscot.org.uk/sites/default/files/2022-06/SMHLR-Response\\_May2022.pdf](http://www.mwscot.org.uk/sites/default/files/2022-06/SMHLR-Response_May2022.pdf)

<sup>25</sup> [https://www.mwscot.org.uk/sites/default/files/2022-09/MWC\\_MentalHealthStrategy\\_ConsultationResponse\\_Sep2022\\_0.pdf](https://www.mwscot.org.uk/sites/default/files/2022-09/MWC_MentalHealthStrategy_ConsultationResponse_Sep2022_0.pdf)

UNCRC Act (Scotland) 2024. While not always necessarily affecting care experienced children and young people directly this work can do or do so indirectly.

One of the important areas of work that we have undertaken over the past two years has been establishing regular meetings with colleagues from the Care Inspectorate. These meetings have had the intention of discussing each other's work and exploring opportunities for collaboration in work in the future.

We have now made plan to undertake a joint visit with the Care Inspectorate in 2025-26 to Scotland's five secure children's units. This work relates to the experience of care experienced young people directly and our main focus will be on the use of restricted practice within the secure units.

We hope to find out more about the use of restricted practices such as seclusion and restraint within these units and at the same time support good practice in its use to ensure that safeguards are in place to safeguard children and young people.

**Next steps:**

Develop a memorandum of understanding with the Children's Commissioner Scotland.

Undertake joint work with the Care Inspectorate in 2025-26 visiting all of Scotland's secure units and finding out about the use of restrictive practices such as a restraint and seclusion.



#### **Theme 4: We will collaborate with other corporate parents and improve the way we collaborate with children and young people who are care experienced**

In addition to the examples of collaboration cited elsewhere in this report, we continue to be active participants of the collaborative corporate parenting network that is supported by Who Cares Scotland.

There are regular meetings of many corporate parents across Scotland and we find this to be a rich learning environment where we can hear about and learn from the work and the experiences of Scotland's other corporate parents.

In November 2023, together with the Children's Commission Scotland, the Scottish Human Rights Commission, The Promise Scotland and the Equalities and Human Rights Commission Scotland, we wrote to Scottish Government ministers asking that they identify a suitable legislative vehicle to support a statutory framework relating to the use of restraint and seclusion with children and young people across all settings where children and under the care or supervision of the state.

In this letter we highlighted the need for such a framework be relevant to children's needs in many different settings including early years, education, residential care, hospital and health settings as well as prisons and custody environments.

We have become concerned in recent years that the experience of restrictive practices for children and young people varies substantially across settings, despite the fact that human rights and children's rights are actively engaged in whatever setting they find themselves.

Indeed, we would go further and argue that the use of restrictive practices, such as restraint and seclusion, should be explored in all settings including those within the family home.

We are aware from our work in the past that sometimes high levels of restrictive practices are used to try and keep children safe within a home environment especially with those children and young people who have learning disability and autism.

Finally, a key area that we have continued to work on over the past three years has been trying to establish our ability to collaborate and consult with children and young people, including those who are care experienced about our work and seek their views.

Members of the CYP group have met with members of the Commission's advisory committee to consider how the voice of children and young people can be strengthened within our organisation.

We have a small number of engagement and participation officers (E&P) at the Commission and their work involves seeking out and involving the voice of people

who use services in our work. Since 2022, members of the E&P Team have attended our regular CYP group meetings so that we can work together to try and develop more consistent inclusion of the voices of children in our activities.

We have established links with a greater number of children's rights officers across Scotland including Dumfries and Galloway, Ayrshire and Arran and Lanarkshire. Young people from Dumfries and Galloway's Mental Health Youth Forum helped us with our *Children's rights report 2020-23* that was published in April 2024<sup>26</sup>.

We have also begun to make links with children and families and in the North of Scotland region and attended their annual What Matters to You event held at Dudhope House in Dundee<sup>27</sup>.

For this report we have reached out to many of these number of groups again and the Borders Additional Needs Group (BANG) was able to give us helpful feedback about our ideas. We are very grateful for their feedback and for their help with this report.

Sometimes we have found it difficult to identify groups of children and young people who have experience of both mental health legislation and are care experienced.

Going forwards we recognise that we need to make a specific focus within our engagement and participation plan of children and young people including those who are care experienced to ensure we can include their voices in our work and strengthen these relationships so that we our engagement can be more consistent and meaningful.

#### **Next steps:**

We will include children and young people and care experienced children and young people specifically in future engagement and participation plans so that their views can inform our work on an ongoing basis;

We will ensure that engagement and participation officers include work with care experienced people and organisations as part of their regular activities.

We will review the involvement of representatives in our advisory group to ensure that the voices of children and young people are represented.

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<sup>26</sup> [https://www.mwscot.org.uk/sites/default/files/2024-04/ChildrensRightsReport2020-23\\_3.pdf](https://www.mwscot.org.uk/sites/default/files/2024-04/ChildrensRightsReport2020-23_3.pdf)

<sup>27</sup> [www.wm2u.co.uk](http://www.wm2u.co.uk)

## Ending

This is the end of this report. We hope we have laid out our ideas and plans for the next three years clearly. For those people who want more details we have included a separate action plan to this report as an appendix which will provide a summary of all of our actions relating to corporate parenting. This will include the new actions that we have talked about in the 'Next steps' sections of this report together with the ongoing actions that we are keeping in place from previous reports.

## Appendix: Action plan 2024-27

Theme 1: We understand our duties as corporate parents which form an integral part of decision making on Commission priorities and activities.	
<p>We will ensure that all staff, including Board members, understand and are aware of the needs of care experienced children and young people, and of our corporate parenting responsibilities.</p>	<ul style="list-style-type: none"> <li>• We will provide opportunities to refresh knowledge and ensure awareness of the current corporate parenting plan at least yearly with Commission staff to inform good practice in our work. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> <li>• We will develop induction materials and Qs and As in relation to common questions about corporate parenting and make them available to Commission staff. Induction of new staff members will include mandatory training on corporate parenting. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> <li>• We will provide staff opportunities to participate in child protection training as part of regular mandatory training. <i>Lead: human resources. From 2024.</i></li> </ul>
<p>We will ensure that our corporate parenting responsibilities remain a corporate priority.</p>	<ul style="list-style-type: none"> <li>• Strategic and business plans will signpost to the corporate parenting plan as a standard item. <i>Lead: executive lead (corporate services). Ongoing.</i></li> <li>• We will ensure governance of corporate parenting duties is overseen by the executive leadership team and children &amp; young people's group. <i>Lead: executive lead (corporate services). Ongoing.</i></li> </ul>
<p>We will ensure the needs of care experienced children and young people are considered, including being alert to matters which may affect their wellbeing.</p>	<ul style="list-style-type: none"> <li>• When setting out our business plan for coming years we will ensure we consider the needs of care experienced children and young people in our planning activity and when deciding priorities for monitoring and themed visit programmes. <i>Lead: executive lead (CYP) &amp; CYP Group. Ongoing.</i></li> </ul>

**Theme 2: We will continue to learn about the needs and the rights of care experienced children and young people and learn about how our work can support them**

We will ensure access to our services for care experienced children and young people.

- We will periodically contact agencies that support young people with mental health issues or learning disabilities to publicise our advice line to them, and to ask them to highlight it to the children and young people they work with.  
*Lead: executive lead (advice line). Ongoing.*
- We will ensure Commission staff are aware care experienced children and young people may call the advice line.  
*Lead: executive lead (advice line). Ongoing.*
- We will ensure that all visit activity (local, themed. monitoring or guardianship) gathers information in relation to care experienced young people as standard.  
*Lead: executive lead (visits) & (monitoring). Ongoing.*
- We will ensure the Commission’s staff on any local service visits ask that individuals with care experience are given the opportunity to meet with them. We will review information relevant to this in the pre visit preparation to services.  
*Lead: executive lead (visits). Ongoing.*
- When on any visits, staff will ensure to ask if the individuals being visited have care experience and record this for reporting in the Commission’s annual reports.  
*Lead: executive lead (visits) / all practitioner Staff. Ongoing.*
- We will include visits to individual young people subject to guardianship in our guardianship monitoring visit programme.  
*Lead: executive lead (visits). Ongoing.*
- We will develop a specific communication strategy to explore how children and young people and care experienced children and young people are better able to access our resources involving consultation with children and young people and gather their views;  
*Lead: executive lead (corporate services). From 2024.*
- We will review our complaints process to make sure that it is child friendly and accessible.  
*Lead: executive lead (corporate services). From 2024.*

We will work to review how we ask about and record care experience in our daily work

- We will undertake specific work to explore how we should best capture and record care experience and whether we should regard care experience as a protected characteristic as part of our equalities monitoring.  
*Lead: executive lead (CYP) & CYP group. From 2024.*
- We will undertake specific work to explore how we best should ask about care experience with the people we meet;  
*Lead: executive lead (CYP) & CYP group. From 2024.*
- We will undertake specific work to explore how best to adapt the forms that we use and handle to include care experience when appropriate;  
*Lead: executive lead (CYP) & CYP group. From 2024.*
- We will introduce a new information system to support recording of care experience as part of our visits, monitoring, telephone advice line and investigations work.  
*Lead: executive lead (CYP). From 2024.*

**Theme 3: We will promote the interests of care experienced children and young people in Commission work around mental health and will raise any concerns or views we have with relevant services and policy makers.**

<p>We will ensure we remain engaged with national work around mental health for children and young people</p>	<ul style="list-style-type: none"> <li>• We will continue to be active participants in groups and networks which work to improve understanding of how services can best respond to the mental health needs of children and young people some of whom may be care experienced. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> <li>• We will work to develop a Memorandum of Understanding with the Children’s Commissioner (Scotland) to support our duties relating to the rights of children and young people with mental health difficulties. <i>Lead: executive lead (CYP) &amp; CYP group. From 2024.</i></li> <li>• We will continue to share intelligence with the Care Inspectorate and Health Improvement Scotland to ensure any concerns about services can be acted upon in a responsive, co-ordinated and proportionate way. <i>Lead: executive lead (sharing intelligence). Ongoing.</i></li> <li>• We will continue to respond to national policy direction and formal consultations and share our experience in the promotion of the rights of care experience children and young people. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> </ul>
<p>We will report our findings regarding our visits, investigations and monitoring activities on a regular basis and make recommendations about concerns whenever relevant</p>	<ul style="list-style-type: none"> <li>• We will report statistics around care experienced young people we come into contact with in order to inform future work by ourselves and wider agencies. <i>Lead: executive leads (visits), (monitoring) and (investigations). Ongoing.</i></li> </ul>

<p>We will ensure our advice and guidance includes the needs of children and young people who are care experienced when appropriate</p>	<ul style="list-style-type: none"> <li>• We will continue to review the information we provide and our guidance to include matters that support and promote the rights of care experienced children and young people. <i>Lead: executive lead (guidance,) all staff &amp; CYP group. Ongoing.</i></li> </ul>
<p>We will promote good practice in the care and treatment of care experienced children and young people and in the protection of their rights</p>	<ul style="list-style-type: none"> <li>• We will consider investigations into issues brought to our attention regarding the mental health care and treatment of individual care experienced children and young people whenever such work would lead to wider learning across agencies and professions. <i>Lead: all staff, executive lead (investigations). Ongoing.</i></li> <li>• We will undertake a joint visit with the Care Inspectorate to Scotland's secure units in 2025-26 focusing on the use of restrictive practices. <i>Lead: executive lead (CYP) &amp; CYP group. From 2024.</i></li> </ul>



**Theme 4: We will collaborate with other corporate parents and improve the way we collaborate with children and young people who are care experienced.**

<p>The Commission is aware of how other corporate parents are meeting their duties and can apply relevant learning to its own response</p>	<ul style="list-style-type: none"> <li>• We will actively collaborate with corporate parents and the corporate parenting network by both sharing and learning from others regarding good practice. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> <li>• We will learn from other corporate parents how we can improve our involvement with care experienced young people in our work. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> </ul>
<p>The Commission will seek to provide opportunities to participate in activities designed to promote the involvement and wellbeing of care experienced children and young people.</p>	<ul style="list-style-type: none"> <li>• We will build on relationships with groups of care experienced children and young people and strengthen opportunities to gather their views about our work on a regular basis. <i>Lead: CYP group and E&amp;P officers. 2021 onwards.</i></li> <li>• We will ensure that consultation with children and young people and care experienced children and young people remains a specific element in engagement and participation planning. <i>Lead: executive lead (E&amp;P). From 2024.</i></li> <li>• We will review the involvement of representatives of our advisory group to ensure that the voices of children and young people are represented. <i>Lead: executive lead (CYP) &amp; CYP group. From 2024</i></li> <li>• Through collaboration with other corporate parents, the Commission will participate in information sharing and will identify opportunities for collaboration which would strengthen Commission activity and perspective. <i>Lead: executive lead (CYP) &amp; CYP group. Ongoing.</i></li> <li>• In any reviews undertaken of Commission information or guidance specifically designed for children and young people, we will endeavour to consult with young people, including looked after young people, to ensure information is accessible for them. We will do this in partnership with third sector organisations when appropriate. <i>Lead: executive lead (guidance) &amp; CYP group. Ongoing.</i></li> </ul>



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