

Response to the Scottish Parliament's Education and Skills Committee's call for views on the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill



Submission from the Scottish Youth Parliament, January 2021

Summary of SYP's recommendations

- SYP agrees with the aims of this Bill and believes that urgent action is required to improve the outcomes of disabled children and young people, particularly in light of the COVID-19 pandemic.
- We welcome the Bill's provisions and believe that they will bring about meaningful change in the outcomes of this group.
- SYP believes that this Bill alone cannot create the cultural change required to put disabled children and young people on an equal footing with their abled-bodied peers. We believe that the Bill should be the start of further legislative change to improve inequalities for disabled children young people, including the incorporation of the UNCRPD into Scot's law.
- SYP believes that legislative change is the best way to secure improved outcomes for disabled children and young people during their transition to adulthood.
- SYP welcomes the provision for a National Transitions Strategy and its requirement to consult a wide range of stakeholders.
- We believe the provisions for consultation on the strategy could be strengthened by including a specific requirement to consult a wide range of disabled children and young people, including those with invisible disabilities. Disabled MSPs should also be added to the list of consultees.
- The strategy could be strengthened by including examples of what it could include within the Bills provisions. The Bill should include a provision for the strategy to cover a wide range of disabilities, including invisible disabilities.
- SYP welcomes the provision for transition plans and commends its rights-based approach.
- The provisions for transition plans could be improved by including reference to when the planning process should start and creating a provision for a template plan and guidance to be co-designed with disabled children and young people to be used by all local authorities. The Bill should also reference that children and young people should be allowed to communicate their views in a way that they are comfortable doing so.
- We believe the Bill will improve disabled children and young people's access to rights and improve their ability to hold decision makers accountable.
- SYP believes that details of how a young person's capacity will be determined should be included on the face of the Bill.

Approach

To gather views on this response, SYP's Health and Wellbeing Committee worked with SYP staff to hold a focus group with 8 MSYPs. To help MSYPs understand the background and provisions of the Bill, we invited representatives from Inclusion Scotland and Camphill

Scotland to give an introduction to the session. The views of MSYPs are used alongside existing SYP policy and research.

1. Do you agree with the overall aims of the Bill? If so, do you think the Bill can meet these aims?

Aims

SYP believes that this Bill addresses a pressing and important issue. We welcome its introduction. MSYPs commend the research and work that has gone into creating the provisions within the Bill.

When we shared the aims of this Bill with a focus group of 8 MSYPs, a large majority (7 - 87.5%) of attendees said they agreed with these aims, with only 1 participant saying they were unsure.

We agree with partners such as Camphill Scotland and Inclusion Scotland that not enough is currently being done to support disabled young people to reach positive destinations. For example, we know that months after leaving school young disabled people are twice as likely to be Not in Education, Employment or Training (NEET) than their non-disabled peers¹. By age 19 young Scottish disabled people are three times as likely to be NEET².

We believe that this legislation will provide all disabled young people with an opportunity to look at their lives holistically and gain the support required to reach their potential- something that is currently lacking.

‘I support the general principles of the Bill. I think it’s really, really important because...there are disabled young people who are just falling through the cracks and are not having those opportunities into adulthood as any other abled-bodied child or young person would.’ - An MSYP focus group participant.

Furthermore, with the impact of the COVID-19 crisis disproportionately impacting young people as a whole, we believe that it is essential that additional support and action for disabled children and young people is placed in law as soon as possible.

Latest figures show that employment levels for those aged 16-24 and 65+ in Scotland have fallen by 357,000 (7%), compared to a fall of 141,000 in 25-64 year olds (0.5%)³. Alongside this, nearly 50% of workers in areas of the economy that have been shut-down are under 35 years old⁴. Thus the main economic impacts of the pandemic have fallen massively disproportionately on younger workers i.e. the reduction in employment levels is 14 times higher in the young workforce.

In our Autumn 2020 Lockdown Lowdown report, SYP, Young Scot and Youthlink Scotland found further evidence that the pandemic is negatively impacting young people’s employment. When asked if they felt good about their future employment prospects, 39% of those in full-time employment and 38% in part-time employment disagreed or strongly disagreed with this statement. Reasons given for this included less jobs being available and stronger competition from experience adults.

¹ “Consequences, risk factors, and geography of young people not in education, employment or training (NEET): Scottish Longitudinal NEET study”, Scottish Government, 2015

² *ibid.*

³ ‘Coronavirus: Impact on the labour market’: briefing paper, House of Commons, 2020

⁴ *ibid*

"It is so hard as a youth trying to get a job at the moment, before lockdown it was already difficult as employers don't want someone with no work experience but now it's even more challenging as thousands of people lost their job and are also looking." - Lockdown Lowdown respondent

"I am a recent masters graduate and feel like my future employment has been impacted greatly by COVID. There are higher numbers of those looking for employment. If I was in the top 20% of candidates before, I am now probably in the bottom 40%." - Lockdown Lowdown respondent

"I finished my degree during lockdown and cannot find a graduate job. Now the bar I work in is closing and I have been made redundant. This wasn't supposed to happen after going to uni." - Lockdown Lowdown respondent

With disabled young people finding it harder to find employment than their abled-bodied peers before the pandemic, the impact of the pandemic on youth employment will also hit them to a more severe extent. Therefore, we think the aims of this Bill are more important than ever before.

Will the Bill achieve these aims?

Whilst we do believe the Bill will allow Scotland to take positive steps forward and both improve the support and subsequent outcomes of young disabled people as they transition to adulthood, we are less certain that this Bill alone will be able to provide them with the same opportunities as other children and young people.

For this reason, of the 7 focus group participants who answered this question, 3 said yes, 3 said they were not sure, and 1 said no.

MSYPs did believe that this Bill would bring about meaningful change for this group of young people. A disabled MSYP, who themselves had a positive experience of being supported through their transition, said:

'When I first heard about [this Bill], my reaction was 'yes, now other young people who weren't in my position will have the ability to [reach their potential]'

The main concern was that cultural perceptions of and attitudes towards disabled people create large barriers to them having equal opportunities. Whilst this Bill will help to shift this narrative, MSYPs believe it will take more than this to create wide scale change. As one MSYP said,

"I worry that children and young people might not benefit from it. Especially as disabled young people get written off so easily, so many of them don't go on to university, don't go on into the workforce...because they are not seen as capable of that."

There was further concern that whilst the Bill provides a solution to the impact of inequality, it doesn't tackle the root cause of how it occurs in the first place.

"It doesn't take into account factors which...are putting them at a disadvantage in the first place. Whilst a transition plan would be really positive, they don't tackle the root causes. So more and more disabled people are going to suffer the inequalities beforehand."

SYP calls on decision makers to continue to take action to tackle the root causes of inequalities for disabled children and young people, alongside this Bill. One way we believe this can be done is by incorporating of the Convention on the Rights of Persons with Disabilities (CRPD) into Scots Law.

“The United Nations Convention on the Protection of Persons with Disabilities (CRPD) should be fully brought into Scots law to protect the rights of disabled children and young people, ensure access to independent living, support those with invisible disabilities and reduce stigma.” - Manifesto call from SYP’s 2021-26 manifesto, ‘From Scotland’s Young People’, passed with 83% agreement.

We believe this would not only create the strong protection to disabled young people receiving equal opportunities in education and employment, but that it would help to create a culture change where disabled people are seen as equals in Scottish society.

There was also concern around whether the Bill’s provisions would ensure that every disabled young person to receive the same experience of support. This came from MSYPs noting that, in their experience, there are disparities between the performance of different local authorities, which could lead to different levels of support through the transition in practice. Although it was acknowledged that legislation offered a greater opportunity to ensure that local authorities meet the required standards.

With all of these points in mind, SYP agrees with the aims of this Bill and believes that urgent action is required to improve the outcomes of disabled children and young people, particularly in light of the COVID-19 pandemic. We believe that the Bill’s provision will bring about change in the outcomes for this group but believe that this Bill alone cannot create the cultural change required to put disabled children and young people on an equal footing with their abled-bodied peers.

Therefore, we believe that the Bill should be the start of further legislative change to improve inequalities in disabled children young people, including the incorporation of the UNCRPD into Scot’s law.

2. Is changing the law the only way to do what the Bill is trying to do? Would the Bill (as it is currently written) have any unexpected or unforeseen effects?

Due to time limitations prohibiting us to breakdown this question into an understandable format, as well as upskill MSYPs to answer this kind of nuanced question, we did not explore this with our focus group.

However, MSYPs did note in their response to question 4 that they liked that disabled young people would have the legal right to have a transition plan, instead of this being something offered through policy changes. This would allow action to be taken if a young person was given the chance to plan their transition.

A disabled MSYP who had a positive experience of planning their transition noted that not all disabled people are offered the same level of support at things currently stand. The concerns MSYPs noted around the disparities in provision across local authorities also leads us to think that anything less than a legal requirement will not ensure equal access to this kind of support.

Furthermore, SYP believes that decisions makers should take a human rights based approach (HRBA) to all policy issues. This approach requires that there are legal mechanisms to protect these rights. So we believe that having these provisions placed in law are necessary to ensure that disabled young people can access their rights linked to the transition to adulthood (e.g. article 3.f of the UNCRPD - every person must have equal chances in life).

Therefore, we believe that a legislative change is the best way to secure improved outcomes for disabled children and young people.

3. The Bill would require the Scottish Government to introduce a National Transitions Strategy (sections 1 to 6 of the Bill). Do you agree with introducing a strategy, and a Scottish minister to be in charge of it?

National Transitions Strategy

After sharing the details of the suggested provisions to introduce a National Transitions Strategy, we asked our focus group whether Scotland should introduce the strategy as outlined within the Bill.

5 MSYPs told us they believed it should and the remaining 3 were unsure. There was a general belief that this could make a ‘huge difference’ on the lives of individual disabled young people.

However, some MSYPs noted that they believe that the strategy alone cannot achieve the wide scale cultural and societal change required to put young disabled people on an equal footing with their abled-bodied peers. As one MSYP said,

‘You need to address why it needs to be implemented in the first place’.

SYP believes that, whilst having a legal requirement for a transitions strategy is a positive and necessary step forward, Scotland should also go further and incorporate the United Nations Convention on the Protection of Persons with Disabilities (CRPD). This would ensure that young people the legal protection they require to access their rights and create the cultural change required to ensure that society respects disabled people as their equals.

In terms of the specific provisions within this section, MSYPs noted that they liked both the provision to consult with a wide range of stakeholders and the specific provision to consult disabled children and young people. Several focus group participants highlighted how important it was that these young people are consulted on the strategy. This approach respects the right children have to have their say in all matter effecting them (article 12 of the UNCRC).

MSYPs believed this section of the Bill could be strengthened by:

- Adding an additional requirement to consult disabled MSPs
 - ‘Whilst there is a lack of them [in terms of representation], I believe it is important that they are involved in a strategy like this’
 - ‘A disabled [MSPs] will know what they as a [young] person would have liked.’
- Specifically outlining that young people with a wide range of different disabilities should be consulted, including invisible disabilities.

- '[I would want it] to ensure that everyone is included because disabilities is such a broad term and there are so many different experiences within that.'
- Including some examples of what this strategy would cover
 - One MSYP noted how they felt the provision just to have a strategy was too general and they would like some sort of insight into what that would include
- Including reference within the Bill itself that this strategy should include a focus on a wide range of disabilities.

Scottish Ministers Responsibility

We also asked MSYPs whether they thought that the responsibility for such a strategy should lie with Scottish Government Ministers. 3 MSYPs thought it should, 1 thought it should not and 4 didn't know.

One participant noted how they agreed with this approach, although they felt it was important that one specific minister, who has the sole remit for transitions for disabled children and young people, should lead on this. This could be similar to the approach taken to the recent drugs death crisis, where a specific position was created for a Minister for Drugs Policy.

'This is a huge issue and it needs to be treated as such. If they have other things they need to do, it's just going to fall through the cracks.'

One MSYP noted they weren't sure because they didn't know who else they could assign this responsibility. They believed that this approach has its pros and cons, but weren't sure if there was another option.

Several MSYP felt that responsibility for this should be given to an independent person or group, which is chosen by and reports to the Scottish Parliament. One MSYP noted that they would like to see a group of individuals, made up from the groups who are required to be consulted upon the strategy, take charge of it. I was believed that this would prevent the strategy becoming politicised and would bring decision makers together.

Some participants felt it was important that the responsibility for the strategy should lie with a disabled person, as this lived experience would not only be an asset to its development but would also give disabled young people 'assurance' that this promise would be fulfilled. One MSYP felt that, given the underrepresentation of disabled people in the Scottish Parliament, this was unlikely to happen if the responsibility lay with ministers.

However, another participant raised concerns about whether an independent person or group would have 'enough of the necessary powers and authority' to ensure the strategy 'reaches its full potential', like they believed a Scottish Government Minister would).

Therefore, we recommend that the possibility of giving responsibility for the strategy to an independent group or body should be explored. If they do not have the necessary authority to create an implement such a strategy, then responsibility should remain with Government Ministers. SYP believes it would be beneficial for the person in charge of the strategy to have lived experience of disability.

4. The Bill places a duty on local councils to prepare and implement transition plans for each disabled child and young person within their local authority area (sections 7 to 13 of the Bill). They would also have to explain:
- how plans were going to be prepared and managed
 - what would happen if there was a disagreement about what was in a plan or how it was working.

Do you agree with these proposals?

SYP does agree with the proposal to place a duty on local councils to prepare and implement transition plans for each disabled child and young person within their local authority area.

We know that young people from across Scotland approve of this proposal, with 89% of young people who responded to our 'From Scotland's Young People' 2021-26 Manifesto agreed that:

'Every child or young person with a disability or long term health condition should have the right to a Transitions Plan to help with their move from child to adult services.'

Furthermore, 6 of the participants in our focus group said they liked the specific proposals within the Bill, with the remaining 2 saying they were unsure. In general, MSYPs believed that transition plans could be a successful way of navigating the move to adulthood.

'Transition plans are ideal to have. I've had one for my transition from being a young carer to being a young adult carer and it worked. I know this is a different thing, but transition plans do work if they are done in the right way. So I like this plan' - an MSYP focus group participant.

A disabled MSYP who had been supported during their transition to adulthood shared their positive experience of how it helped them to move on to meaningful education that was right for them. They believed that it was important for all young people to have a legal right to this kind of support.

'I like this because [disabled] young people that weren't fortunate enough to be in my position, will have the legal right to this'. - an MSYP focus group participant.

In terms of the specific provisions within these sections of the Bill, we note the following comments:

- MSYPs felt it was vital that the young person's voice was at the heart of their plan and were pleased to see that the provisions reflected this. The provision to ensure there is a clear process for how to manage a disagreement is also welcomed.

'My sister [who is disabled] attended a mainstream school and whilst she had a meeting [to plan her transition], it was focused on academics. Some young people with disabilities might not have the ability to go on to a purely academic course, even if they are in mainstream school.' - An MSYP focus group participant.

- We are pleased to see that these provisions have taken an approach, which respects both UNCRC rights and UNCRPD rights.

'I think especially with incorporation of the UNCRC hopefully coming in soon, this is really good timing for this to come in. I think this hits the rights to have your

say in decisions affecting you, right to health, right to information'. - An MSYP focus group participant.

- We believe that these provisions would also help to both raise awareness of disabled young people's human rights and empower this group to claim their rights.
- MSYPs believed provisions provided a clear and distinct picture for how the plans should work in practice, and found them easy to understand.
- We welcome the deadlines for having these plans put in place and for when they will end, as it helps to create accountability and clarity.

We believe this section of the Bill could be strengthened by:

- Including details of when authorities should start to discuss plans with young people. MSYPs felt this was important as it would help to avoid a rushed process and would allow the young person plenty of time to think about where they would like to go next.
- Noting that children and young people should be given the option to communicate their views in a way that works for them. A disabled MSYP told us that when they discussed their transition with their school support staff, they chose to express their wishes to their parents in advance and have them communicate these on their behalf. They believed that all young people should have the option to feed into this process in the way that they feel comfortable.
- MSYPs raised concerns that there could be a lack of consistency in the approach and quality of support provided between local authorities. We suggest that a provision to create template plan and accompanying guidance, co-designed with disabled young people, would help to mitigate against this.

Some MSYPs noted the proposals sounded similar to the Transition Care Plans (TCPs) which are in place to assist young people as they move from Child and Adolescent Mental Health Service to Adult Services. SYP worked with the Scottish Government and NHS Lothian to develop co-design the plans as well accompanying guidance with young people. This resulted in a rights-based care plan, which centred the views of the young person.

An MSYP, who worked on the TCP project, believed that there should be a requirement for a model of these plans to be co-designed with disabled children and young people. They worried that without a requirement for young people to be involved in the creation of guidance for this process, we could end up with a model for plans that does not work for young people and, therefore, the aims of the Bills would not be met.

6. Is there anything else you'd like the Committee to know about the Bill? Do you have any comments on how the Bill will affect (for better or worse) the rights and quality of life of the people covered by the Bill?

Overall, we believe that this Bill will have a positive impact on the rights and quality of life of disabled children and young people. Some specific examples of this given by MSYPs include:

- Improve the way society views the potential and quality of life of disabled young people.

‘People automatically assume you have a lower quality of life. I would hope that this Bill could combat that cultural mind-set that a lot of able bodied people have’.

- The accountability of having a specific ministerial portfolio for transitions will create accountability and, therefore, increase access to rights.

‘A huge part of taking a human-rights based approach is that you can hold people accountable for upholding your rights and I think that accountability is so, so important and will help disabled young people have the same access to rights as abled bodies young people do.’

- All disabled young people will be entitled to the same level of support, creating greater equality as opposed to a postcode lottery.
- All of those involved in a transition (e.g. young person, parents/guardian, support staff etc) will be on the ‘same page’ and working to the same standards.

There were concerns around how local authorities would deem how that young person would or would not have capacity to be involved in the creation of their plan. We believe the Bill could be strengthened by including details of how this will be determined.

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