

The Children and Young People (Scotland) Act 2014

Part 9 (Corporate Parenting)

January 2017

This briefing from CELCIS helps to explain Part 9 of the [Children and Young People \(Scotland\) Act 2014 \(the Act\)](#). The briefing sets out the rights of looked after children, care leavers and carers, and the duties, powers and expectations placed on corporate parents.

This briefing is designed to support organisations and practitioners involved in implementing the provisions of the Act. In this way we hope to fully realise the potential of this legislation to significantly improve care experiences for children and young people. Please note that [statutory guidance](#) on this Part of the Act was published by the Scottish Government in August 2015.

For commentary and analysis on the origins of the Act, the legislative process and accompanying debates, please see the Children and Young People (Scotland) Act 2014 section of the [CELCIS website](#).

Part 9: Corporate Parenting

Corporate parenting 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 their 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 (Scottish Government, 2015).

Part 9 of the Act puts this concept and policy of 'corporate parenting' onto a statutory basis in Scotland. It establishes a framework of duties and responsibilities for relevant public bodies, requiring them to be systematic and proactive in their efforts to meet the needs of looked after children and care leavers. Part 9 also introduces new reporting and accountability structures, with national progress on improving outcomes reported to the Scottish Parliament every three years.

This briefing examines each section of Part 9, highlighting the practical implications of

the legislative provisions. It includes explanations about the population of children and young people to whom corporate parenting applies, and the duties of corporate parents.

Please note that a 'Frequently asked questions' section is available at the end of the document.

Key points from Part 9 (Corporate Parenting)

- Part 9 (Corporate Parenting) of the Act came into force in April 2015.
- Corporate parenting responsibilities' extend to all looked after children, aged from birth to when they cease to be looked after. This includes children in foster care, residential care, secure care, 'looked after at home' (on Compulsory Supervision Orders with no condition of residence) and those in formal kinship care. It also includes disabled children who are 'looked after' on a series of short breaks. Corporate parenting responsibilities also apply to care leavers who were looked after on their 16th birthday (or subsequently); the responsibilities continue to apply until the care leaver reaches their 26th birthday.
- Schedule 4 of the Act specifies the public bodies which will be considered 'corporate parents'. Inclusion in the Schedule means that the organisation must comply with all the provisions of Part 9 (unless it is stated otherwise). These responsibilities are statutory duties of every corporate parent in so far as they are consistent with the proper exercise of the organisation's other functions.
- Guidance from the Scottish Government is available to assist corporate parents, and CELCIS has produced a series of [implementation notes](#) to support corporate parents with the planning and implementation of their Part 9 duties.
- Every corporate parent is expected to fulfil the corporate parenting duties in their own way, consistent with their own purpose and functions. These duties include:
 - Being [alert](#) to matters which adversely affect the wellbeing of looked after children and care leavers;
 - [Assessing](#) the needs of those children and young people for the services and support they provide;
 - [Promoting](#) the interests of those children and young people;
 - Seeking to provide [opportunities](#) which will promote the wellbeing of looked after children and care leavers;
 - Taking action to help children and young people [access](#) such opportunities and make use of the services and support provided.
- All corporate parents must prepare, publish and review a '[corporate parenting plan](#)', which details how they will exercise their 'corporate parenting responsibilities' and other Part 9 duties. The Act encourages [collaborative working](#) between corporate parents to develop, enact and monitor plans.
- Corporate parents have to [report](#) on how they have delivered on their 'corporate parenting plan'. Part 9 also gives Scottish Ministers the power to request

information from corporate parents about how they are fulfilling their corporate parenting duties.

- Corporate parents must give regard to any guidance on corporate parenting issued by Scottish Ministers.
- Corporate parents will also have to comply with any directions issued by Scottish Ministers. These will be instructions for specific corporate parents, relating to how they exercise their corporate parenting responsibilities. (The Commissioner for Children and Young People in Scotland and 'Post-16 Education Bodies' are exempt from this specific duty.)
- At the end of each three-year period, Scottish Ministers will present a report to Parliament detailing how Scotland has exercised its corporate parenting responsibilities during that time. The three-year period started in April 2015. It is likely that Scottish Ministers will seek information from corporate parents in the preparation of this report.

Overview of Part 9 (Corporate Parenting)

The provisions in Section 56 determine that any individual or organisation listed in Schedule 4 (of the Act) will be considered a 'corporate parent'. The section also provides certain organisations with exemptions from duties prescribed by Part 9, and provides Scottish Ministers with the power to amend Schedule 4 (adding, deleting or amending names) through secondary legislation.

Section 57 describes the population of children and young people to which 'corporate parenting' applies. This part applies to every child who is looked after by a local authority and every young person who is under the age of 26 and was, at the age of 16 but is no longer, formerly looked after by a local authority. This includes children in foster care, residential care, secure care, 'looked after at home' (on Compulsory Supervision Orders) and those in formal kinship care. It also includes disabled children who are 'looked after' during a short break. Scottish Ministers may specify, by order, further groups of children and young people who are covered by the corporate parenting duties.

Section 58 lists the 'responsibilities' of corporate parents towards the eligible population of children and young people. These responsibilities are statutory duties on every corporate parent listed in Schedule 4 of the Act, in so far as they are consistent with the proper exercise of the organisation's other functions. These responsibilities are focused on promoting and securing the wellbeing of looked after children and care leavers.

Section 59 places a duty on all corporate parents to prepare (in consultation with appropriate persons), publish and review a [plan](#) for how they will exercise their corporate parenting responsibilities. Section 60 places a duty on all corporate parents to [collaborate](#) with each other when exercising their corporate parenting responsibilities and other duties under Part 9. Section 61 places a duty on all corporate parents to prepare and publish [reports](#) on how they have exercised their corporate parenting responsibilities and other duties. Section 62 places a duty on all corporate parents to provide Scottish

Ministers with information about how they have exercised their corporate parenting responsibilities and other duties.

Section 63 places a duty on all corporate parents to follow guidance (relating to corporate parenting) issued by Scottish Ministers. This guidance could be specific to an individual or group of corporate parents. The section also places a duty on Scottish Ministers to consult with the corporate parents to whom guidance relates, before issuing or revising it. Section 64 provides Scottish Ministers with powers to direct corporate parents about how they exercise their corporate parenting responsibilities and other duties. (Please note that [statutory guidance](#) on corporate parenting was published by the Scottish Government in August 2015.)

Section 65 places a duty on Scottish Ministers to lay a report before the Scottish Parliament at the end of each three-year period, setting out how they have exercised their corporate parenting responsibilities during that period.

Who is a 'Corporate Parent'?

From April 2015 any person or public body listed in Schedule 4 is considered a 'Corporate Parent'. This includes:

1	Scottish Ministers ¹	2	A local authority
3	National Convener of Children's Hearings Scotland	4	Children's Hearings Scotland
5	The Principal Reporter	6	Scottish Children's Reporter Administration
7	A health board	8	A board constituted under section 2(1)b of the National Health Service (Scotland) Act 1978
9	Healthcare Improvement Scotland	10	Scottish Qualifications Authority
11	Skills Development Scotland	12	Social Care and Social Work Improvement Scotland (also known as the 'Care Inspectorate')
13	Scottish Social Services Council (SSSC)	14	Scottish Sports Council (also known as Sport Scotland)
15	Chief Constable of the Police Service of Scotland	16	Scottish Police Authority
17	Scottish Fire and Rescue Service	18	Scottish Legal Aid Board

¹ The term 'Scottish Ministers' refers to the Scottish Government and its agencies. These include the Prison Service, Student Awards Agency for Scotland and Education Scotland. For further details please see the frequently asked questions section.

19	Children and Young People's Commissioner Scotland (CYPCS)	20	Mental Welfare Commission for Scotland
21	Scottish Housing Regulator	22	Bord na Gàidhlig
23	Creative Scotland	24	A body which is a 'post-16 education body' for the purposes of the Further and Higher Education (Scotland) Act 2005 ²

Scottish Ministers may, through secondary legislation, modify this list. They can add or delete individuals or organisations, or amend existing entries (to reflect, for instance, a change of name).

The Commissioner for Children and Young People in Scotland and post-16 education bodies are exempt from the requirement that Corporate Parents must follow directions from Scottish Ministers (Sections 56 and 64). Scottish Ministers, who are themselves corporate parents, are not obliged to prepare a report on how they have exercised their corporate parenting duties (Section 61), or to follow directions from Scottish Ministers. In respect of the first of these exemptions, it should be noted that Scottish Ministers are still under a duty to report on how they have exercised their corporate parenting duties, but in their case it is specifically to Parliament every three years (Section 65).

Population to which Part 9 (Corporate Parenting) applies

Part 9 (Corporate Parenting) of the Act applies to all looked after children and care leavers. A child or young person is considered to be 'looked after' if they fall into one of the categories set out in Section 17(6) of the Children (Scotland) Act 1995, as amended by Schedule 2 of the Adoption and Children (Scotland) Act 2007. These categories are:

- Subject to a supervision requirement set by a Children's Hearing (including those on a Compulsory Supervision Order and living at home with birth parent(s) ('looked after at home')).
- Accommodated by a local authority under Section 25 of the Children (Scotland) Act 1995 (otherwise known as a 'voluntary agreement').
- Subject to a Permanence Order granted by a court.
- Subject to an order, authorisation or warrant made by the relevant authorities under chapters 2, 3 or 4 of Part II of the Children (Scotland) Act 1995.

A corporate parent's duties apply equally to all looked after children, regardless of the legal route by which they came into care or their placement type when in care (i.e.

² The term 'post-16 education body' refers to all colleges and universities in Scotland. For further details please see the frequently asked questions section.

kinship care, looked after at home, short break provision, foster care and residential care).

A corporate parent's duties also extend to 'care leavers' (Section 57(1b)). As of April 2015, young people become 'care leavers' if they:

- (i) ceased to be looked after on their 16th birthday or at any subsequent time, and
- (ii) are under the age of 26.

Under Part 9 Scottish Ministers have the power to extend (through secondary legislation) the application of 'corporate parenting' to new groups of formerly looked after young people in the future. For details about the changes to aftercare (including definitions of care leavers) introduced by the Act, please see [Inform: Parts 10 and 11 \(Aftercare and Continuing Care\)](#).

Corporate parenting responsibilities

Part 9 (Section 58) sets out the 'responsibilities' of corporate parents towards children and young people. These 'responsibilities' are legal duties which every corporate parent must fulfil, and they represent the principal content on which corporate parents will be expected to report. These six duties are:

1. To be [alert](#) to matters which, or which might, adversely affect the wellbeing of looked after children and care leavers.
2. To [assess](#) the needs of those children and young people for services and support it provides.
3. To [promote](#) the interests of those children and young people.
4. To seek to provide looked after children and care leavers with [opportunities](#) to participate in activities designed to promote their wellbeing.
5. To take action to help looked after children and care leavers:
 - [access](#) the opportunities being provided (as per number 4 above) and
 - make use of the services, and access the support, which they provide.
6. To take any other action it considers appropriate for the purpose of [improving](#) the way in which it exercises its functions in relation to looked after children and care leavers.

The Act states that these duties must be fulfilled "in so far as consistent with the proper exercise" of a corporate parent's other functions (Section 58(1)). Simply put, this means that corporate parents must consider how they fulfil these 'responsibilities' within the scope of their day-to-day functions. There is not an expectation, for instance, that corporate parents begin providing services directly to children and young people if this is

not already one of their functions. Similarly, corporate parenting responsibilities/duties should not inhibit an organisation or individual from fulfilling their other functions.

Scottish Ministers have the power, through secondary legislation, to modify the list of corporate parenting duties, including making amendments specific to an individual or group of corporate parents (Section 58(2)).

Corporate Parenting plans

The Act requires every corporate parent to “prepare a [plan](#) for how it proposes to exercise its corporate parenting responsibilities” (Section 59(1a)). Statutory guidance from the Scottish Government provides corporate parents with more detail about the requirements of these plans, but essentially corporate parents must address how they have planned to meet each of the ‘responsibilities’, explaining how they (alone or in collaboration) will fulfil their duties.

In preparing (or revising) their plan, corporate parents must consult with other corporate parents, and any other organisations and persons that they think relevant (Section 59(2)). This includes looked after children and young people and care leavers.

Corporate parents must keep their ‘corporate parenting plan’ under review (Section 59(1b)). This involves having systems in place to regularly collect and analyse information relating to performance, and seeking and analysing feedback from children and young people who have accessed services or participated in activities. Corporate parents should evidence (through their reporting duty) that they have been active in reviewing and revising their plan in order to ensure their activities are as effective as possible.

The Act also requires corporate parents to publish their plans (including any revised plan) (Section 59(3)). They are to do so ‘in such manner as it considers appropriate’, which could involve publishing it together with, or as part of, another plan or document. It should also be noted that ‘publication’ refers to making the plan publicly available. Whatever the format the plan takes (i.e. standalone or part of a wider strategy document) stakeholders should be able to access it.

Reports by Corporate Parents

Every corporate parent must also publish a [report](#) on how they have exercised their corporate parenting responsibilities and other Part 9 duties (such as the duty to collaborate with other corporate parents). The Act does not specify the content of these reports, but statutory guidance specifies that, as a minimum, corporate parenting reports must include information on

- How the corporate parent has exercised the Section 58 duties (the ‘corporate parenting responsibilities’)
- How the corporate parent has fulfilled its functions in respect to planning,

collaborative working, preparing reports, and, where relevant, providing information to and following directions from Scottish Ministers.

Reports must be based on data and analysis; narrative descriptions of activity will not be sufficient. Reports should detail the performance of corporate parents, including the outcomes achieved. It is recommended that corporate parents set clear objectives within their plans, which their performance can be measured and reported on.

The Act does not prescribe a timeframe within which these reports must be published, but in view of the fact that Scottish Ministers are under a duty to provide a report to Parliament every three years (starting from April 2015), it is advisable that other corporate parents adopt a similar reporting schedule. There are also reporting duties for some public bodies (as listed in Schedules 1-3) under Part 1: Rights of Children, Part 4: Provision of Named Persons and Part 5: Child's Plan of the Act.

As with corporate parenting plans, the regular corporate parenting reports should be published in a manner the corporate parent 'considers appropriate'. This means they can be published together with, or as part of, another report or document. They can also be prepared and published jointly, between corporate parents.

Collaborative working among corporate parents

Part 9 of the Act requires all corporate parents, in so far as is reasonably practicable, to [collaborate](#) with each other when exercising their corporate parenting responsibilities and other (Part 9) duties (Section 60). Collaboration could include, as suggested above, the development, monitoring and publication of a joint corporate parenting plan and/or report. But it could also involve:

- a) Sharing information
- b) Providing advice and/or assistance
- c) Coordinating activities (and seeking to prevent duplication)
- d) Sharing responsibility for action
- e) Funding activities jointly.

The Act does not require corporate parents to collaborate at all times, but (in so far as it is practicable to do so) they must if it would help to safeguard or promote the wellbeing of looked after children and young people.

Providing information to Scottish Ministers

Part 9 (Section 62) places a duty on all corporate parents to provide Scottish Ministers with information about how they are exercising their corporate parenting responsibilities, and their duties around planning, collaborating and reporting. In practical terms, this means corporate parents will have to provide Ministers with their latest 'corporate parenting report', which should capture all the relevant information, including standards of performance, and outcomes achieved over the course of the 'corporate parenting

plan’.

Reports by Scottish Ministers

Scottish Ministers must, as soon as practicable after the end of each three-year period (starting April 2015), present to the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period. That report will, like other corporate parenting reports, talk to the various duties applied to Ministers by Part 9 of the 2014 Act.

However, to ensure that the Scottish Parliament receives a complete report on corporate parenting activity across the country, it is likely that Scottish Ministers will request (and summarise) information from other corporate parents in preparation of their parliamentary report.

Directions to corporate parents

Corporate parents must comply with directions issued by the Scottish Ministers (Section 64). These ‘directions’ will take the form of secondary legislation (such as regulations), and will relate to how a specific (or group of) corporate parent(s) exercise their corporate parenting duties. A direction could, for instance, instruct a corporate parent to make certain training or employment opportunities available to looked after children and young people, as part of the corporate parent’s duty to provide opportunities which promote their wellbeing.

Before issuing, revising or revoking a direction, the Act requires Scottish Ministers to consult the corporate parents to which it relates, and any other persons they consider appropriate (e.g. looked after children and young people).

Under the Act, the Commissioner for Children and Young People in Scotland (CYPCS) and colleges (a ‘post-16 education body’ for the purposes of the Further and Higher Education (Scotland) Act 2005) are not subject to this section of Part 9. This means that Scottish Ministers cannot issue directions to these organisations.

Guidance on corporate parenting

All corporate parents (with no exemptions) must give regard to any guidance about corporate parenting issued by the Scottish Ministers (Section 63). This provision makes complying with the guidance a statutory duty.

Guidance from Scottish Ministers was issued in August 2015 and includes advice and information about how corporate parents should:

- exercise their corporate parenting responsibilities;
- promote awareness of their corporate parenting responsibilities;
- plan, collaborate or report.

Frequently asked questions

Q. What is Corporate Parenting?

A. Part 9 of the Children and Young People (Scotland) Act 2014 (the Act) puts the concept of corporate parenting onto a statutory footing for the first time in Scotland. It establishes a framework of duties and responsibilities for relevant public bodies requiring them to be systemic and proactive in their efforts to meet the needs of looked after children and care leavers.

[Statutory Guidance](#) on Part 9 published by the Scottish Government in August 2015 specifies that corporate parenting 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 their physical, emotional, spiritual, social and educational development is promoted, from infancy through to adulthood. 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.

Q. Who is a Corporate Parent?

A. Schedule 4 of the Act sets out who is a Corporate Parent. This list includes: Scottish Ministers, local authorities, health boards, Police Scotland, Scottish Fire and Rescue Service, Children's Hearings Scotland, Scottish Children's Reporter Administration, and the Commissioner for Children and Young People; inspection, scrutiny and regulatory bodies (Care Inspectorate, Health Improvement Scotland, Mental Welfare Commission, Scottish Housing Regulator and Scottish Social Services Council); education, training and funding bodies (Scottish Qualifications Authority, Skills Development Scotland, Scottish Legal Aid Board, Bord na Gàidhlig, Creative Scotland and Sport Scotland). Any post-16 educational institutions which receive funding through the Scottish Funding Council are also corporate parents, this includes all colleges and universities in Scotland. The Act allows Scottish Ministers to be able to add a person or persons or remove or modify the list, by order.

Q. What parts of the Scottish Government are corporate parents?

A. The reference to 'Scottish Ministers' in Schedule 4 means that all of the Scottish Government will be considered a corporate parent. That covers all directorates and agencies, including the Executive Agencies. These Executive Agencies are organisations set up to perform a specific task(s), but which report directly to Ministers. The Scottish Government's Executive Agencies are (at the time of writing, January 2017): Accountant in Bankruptcy; Disclosure Scotland; Education Scotland; Scottish Prison Service; Scottish Public Pensions Agency; Student Awards Agency for Scotland; and Transport Scotland.

Q. Who is entitled to corporate parenting

A. Part 9 applies equally to all looked after children, regardless of the legal route by which they came into care or their placement type when in care (i.e. kinship care, looked after at home, short-break provision, foster care and residential care). Care leavers who

ceased to be looked after on their 16th birthday or at any subsequent time, and are under the age of 26, are also entitled to corporate parenting.

In line with other parts of the Act, Scottish Ministers have given themselves flexibility to amend or extend eligible populations in order to meet identified need. In the case of Part 9 duties, these could be extended to cover a wider a group of care-experienced young people.

Q. What are the corporate parenting duties?

A. Section 58 of the Act sets out the corporate parenting duties. It states that it is the duty of every corporate parent (where consistent with their other functions):

- to be alert to matters which could adversely affect the wellbeing of children and young people;
- to assess the needs of those children and young people for support and services it provides;
- to promote the interests of those children and young people;
- to seek to provide those children and young people with opportunities to participate in activities designed to advance their wellbeing
- to take such action as it considers appropriate to help those children and young people to access those opportunities and to make use of services, and access the support which it provides
- to take any other action it considers appropriate to improve the way in which it carries out its functions in relation to those children and young people.

There is flexibility in the Act for Ministers to adjust the list of corporate parenting duties and to modify their application to particular corporate parents by order. This allows for flexibility when certain duties might be more appropriate to apply to specific corporate parents.

Q. What do corporate parents have to do?

A. The responsibilities of corporate parents are set out in Part 9 of the Act. Corporate Parents have a duty to plan, review, monitor and report on how they are fulfilling their corporate parenting responsibilities as set out in Section 58 of the Act. They also have a duty to collaborate with one another, and to provide Scottish Ministers with information as requested.

Although the Scottish Ministers are corporate parents, there is an exception for them in relation to certain provisions, due to their special position in relation to some of the duties. Further detail can be found paragraph 144 of the [Statutory Guidance](#) on Part 9.

Q. How can children and young people seek redress if a corporate parent does not fulfil their duties?

Children and young people should have access to independent advocacy services to raise any concerns if the duties of corporate parents are not being fulfilled. All children and young people should be aware of complaint procedures for corporate parents and these should be provided in an accessible and age-appropriate format. For children and young

people deemed to have capacity, they should be able to seek legal advice and instruct a solicitor. There are also a range of forums and tribunals through which children and young people should be supported to raise any concerns.

Q. Where can I find out more?

CELCIS website hosts many resources if you wish to find out more about corporate parenting. Specifically;

- [Inform - The Children and Young People \(Scotland\) Act 2014: Part 9 \(Corporate Parenting\)](#) is a detailed briefing which examines and explains each section of Part 9, and highlights the practical implications of the legislative provisions.
- [Corporate Parenting homepage](#) hosts more briefings and guidance to understand the statutory duties, and you can browse our suggested essential reading and viewing, to find out more about the idea of corporate parenting.
- [Implementation Notes](#) - The range of different corporate parents named in schedule 4 of the Act means that implementing the corporate parenting duties will look quite different from one corporate parent to the next. We have produced a series of implementation notes to support the implementation of Part 9 of the Act.
- [Scottish Care Leavers Covenant](#) - Care leavers often struggle on the journey out of care and into independence. For many, there is little support or guidance. As a result, the challenges are too great and they continue to experience problems that lead to far poorer outcomes than their peers. Created by an 'Alliance' of stakeholders to close the gap between policy and practice for care leavers, the Covenant will support corporate parents to deliver changes in action and practice to bring improvement and consistency to the care of these young people. It offers clear guidance on how to meet the needs of young people who are often disadvantaged as a result of their care experiences.

Further reading

- Scottish Government (2007 and updated 2013) [Looked After Children and Young People: We Can and Must Do Better](#), Edinburgh: Scottish Government.
- Scottish Government (2008) [These are our Bairns: a guide to community planning partnerships on being a good corporate parent](#), Edinburgh: Scottish Government.

For further information, please contact:

Lizzie Morton

lizzie.morton@strath.ac.uk

CELCIS

University of Strathclyde

Level 6, Curran Building

94 Cathedral Street

Glasgow

G4 0LG

Telephone: +44 (0)141 44 8500