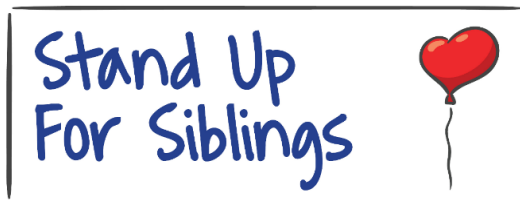


United Nations Committee on the Rights of the Child Day of General Discussion
"Children's Rights and Alternative Care", 16 - 17 September 2021
Submission on behalf of Scottish coalition 'Stand Up for Siblings'



The purpose of the Day of General Discussion is to review progress made in the implementation of relevant international standards and to discuss particular areas of concern with regard to the unnecessary separation of children from their families and appropriate ways to respond to separation where it is unavoidable. Aims include expanding opportunities to learn from evidence about alternative care options and evidence about what constitutes quality alternative care.

This submission provides evidence about improving the quality of alternative care for brothers and sisters based on the experience in Scotland.

Summary:

'Stand Up for Siblings' is a collaboration between a number of organisations and individuals in Scotland who are working together to end sibling separation and estrangement by campaigning for changes to the law, policy and practice.

Where children are separated from their parents, keeping brothers and sisters together is of vital importance for their wellbeing and identity, and central to upholding their right to family life. Despite the fact that children who face adversity greatly value their relationships with siblings, often these relationships become disrupted when children are cared for by the State or the courts intervene in parenting.

In Scotland this issue has been recognised as needing urgent action. Following a long campaign, the law changed in 2020 and 2021 to better protect the sibling relationships of children in care. There is widespread commitment to this goal and work is underway to implement the new laws and change practice permanently.

1. About 'Stand Up for Siblings'

Stand Up For Siblings is a collaboration between a large number of child welfare, children's rights and legal organisations, public bodies and academics within Scotland.¹ We started to work together in 2017 because we believe that more has to be done to protect the rights and promote the wellbeing of siblings who are separated when they are cared for by the State.

By working together we have been able to raise awareness of the issues faced by Care Experienced brothers and sisters and to strongly influence changes to the law, policy and practice. We share lots of information and resources on our website² about [the experience of people living in care](#), good practice [news, studies and research](#), [international reviews of evidence](#), [sibling rights](#), what [the law](#) is and how it is changing, and how young people can get help to see their siblings. Stand Up for Siblings is a voluntary collaboration which receives no dedicated funding.

2. The importance of sibling relationships

Sibling relationships are amongst our longest lasting relationships and contribute greatly to our sense of identity. Research has demonstrated that positive sibling relationships can provide a source of resilience for children facing adversity and provide continuity and stability at a time of change and uncertainty. They can also be a source of support into adulthood.³

Despite these benefits, sibling separation and estrangement are common for children in care.⁴ Research has estimated that around 70% of children in care experience separation from siblings. Where this occurs children typically express a strong desire to stay in contact with brothers and sisters, but their time together varies in quality and tends to become less frequent over time. This is a source of distress for children and a concern of professionals working on their behalf.

Following evidence provided by civil society organisations in Scotland, this issue was recognised in the [United Nations Committee on the Rights of Child's Concluding Observations](#) on the United Kingdom in 2016. This helped raise awareness and put pressure on government to act.

Scotland's [Independent Care Review](#), which concluded in February 2020, heard many stories from Care Experienced people who described how State care led to them being separated from their brothers and sisters, leaving profound and lifelong consequences. Stand Up for Siblings provided evidence to the Review. The Review's recommendations for change, known

¹ For a list of members please go to <https://www.standupforsiblings.co.uk/about/our-members/>.

² <https://www.standupforsiblings.co.uk/> - the website is ran by the Scottish Children's Reporter Administration.

³ Wojciak, A. S., McWey, L. M., & Waid, J. (2018). Sibling relationships of youth in foster care: A predictor of resilience. *Children and Youth Services Review*, 84, 247-254.

⁴ Ashley, C and Roth, D. (2015). *What happens to siblings in the care system?* London, Family Rights Group; Jones, C., Henderson, G., & Woods, R. (2019). Relative strangers: Sibling estrangements experienced by children in out-of-home care and moving towards permanence. *Children and Youth Services Review*, 103, pp 226-235. Henderson, G., Jones, C. and Woods, R. (2017). Sibling birth order, use of statutory measures and patterns of placement for children in public care: implications for international child protection systems and research. *Children & Youth Services Review* 82, 321-328.

as [‘The Promise’](#), call for sibling relationships to be one of the foundations for all future care. Children must be supported to live with their families wherever possible, but if that is not possible, children must stay with their brothers and sisters where safe to do so and belong to a loving home, staying there for as long as needed. Siblings must be supported to keep in touch, and their rights to be part of decision-making about their brothers and sisters respected. The Scottish Government has committed to implementing the Review’s recommendations in full over 10 years and all political parties support this. The changes for brothers and sisters is a key priority for the next 3 years.

There is now widespread commitment in Scotland to the principle of maintaining sibling relationships and to addressing barriers to Care Experienced brothers and sisters living together and seeing each other.

3. People sharing lived experience to ensure change for others

Care Experienced people have been calling for change for decades. The changes we are seeing in Scotland follow powerful testimony from Care Experienced young people who have shared their experience of separation from brothers and sisters publicly – with Parliament, Government, on television, radio and in writing. Organisations in Stand Up for Siblings support young people who wish to share their experience to help others, including charity Who Cares? Scotland which works with Care Experienced young people and care leavers (read about one young person’s story which featured on radio [here](#)), fostering charity [The Fostering Network](#), and Scotland’s care regulator The Care Inspectorate whose [Young Inspection Volunteers](#) have powerfully contributed their voices and experience to the work for change.

Important changes to the law followed a legal case brought by a young person about his right to family life with his brother which reached the UK Supreme Court in 2019. The judgment was significant in its recognition of the rights of siblings. The young person was represented by Stand Up for Siblings member Clan Childlaw who are lawyers for children and young people – read more [here](#).

In all the evidence it heard, Scotland’s Independent Care Review found that being separated from siblings was identified as one of the most serious and negative consequences of going into care. Care Experienced people of all ages told the Review it was very important for brothers and sisters to be placed together where safe to do so – read the Review’s Evidence summary [here](#).

4. Promoting Seven Steps to Supporting Sibling Relationships

Stand Up for Siblings advocates seven distinct steps that need to be taken to achieve the change needed to support the sibling relationships of children in care, as conceptualised by Dr Christine Jones, Senior Lecturer in the School of Social Work and Social Policy at the University of Strathclyde and co-founder of Stand Up for Siblings. The steps provided inspiration for the Independent Care Review. They are:

1. Be led by Care Experienced children and young people.
2. Strengthen the law relating to siblings.
3. Plan public spending with sibling relationships in mind.
4. Protect and promote sibling relationships through management systems.
5. Build expertise amongst those working directly with siblings.
6. Recruit and retain carers who understand and value relational permanence.
7. Promote transparent and sensitive recording practices.

For each step, improvement goals and a number of targeted actions are identified.⁵ Although written for the Scottish context, the Seven Steps to Supporting Sibling Relationships can be adjusted to any country and provide a practical, comprehensive pathway to achieving change to support brothers and sisters in care.

5. Transforming practice to promote sibling relationships

Stand Up for Siblings have been sharing and promoting best practice to provide ideas for creative improvements to practice all over Scotland. Here are just a few examples:

- [Siblings Reunited \(STAR\)](#) is a member of Stand Up for Siblings and is a charity based on a farm where sibling groups are invited to spend time together doing activities they enjoy in a therapeutic environment. It is the only centre of its kind in Scotland and an excellent example of high quality, child-centred support for brothers and sisters who are unable to live together.
- [Lifelong Links](#) services work with young people in care to help them identify and promote connections within their family network including brothers and sisters. Edinburgh's Lifelong Links services are active members of Stand Up for Siblings providing inspirational examples of good practice.
- There are good examples of local authorities in supporting foster carers to provide quality family time (read one example [here](#)). Carers help keep the feeling of family for children by taking them to meet up at the park, the beach, at each other's homes, and stay in touch by telephone call, video calls, postcards, messaging etc.
- In one area of Scotland, Renfrewshire, Care Experienced people have been influencing local decision-makers by designing a 'Keeping Brothers and Sisters Together' policy which their local authority has endorsed and committed to implement.

⁵ <https://www.standupforsiblings.co.uk/wp-content/uploads/2020/01/seven-steps-2020.pdf>

6. Changes to the law

New landmark laws giving legal protection to Care Experienced brothers and sisters will apply in Scotland from 26th July 2021. Stand Up for Siblings was instrumental in these changes. The new legislation puts new detail into Scots law about sibling rights, which are already protected as part of the right to family life in Article 8 of the European Convention on Human Rights and Article 16 of the United Nations Convention on the Rights of the Child. They also embed children's Article 12 UNCRC rights to be heard and participate in all matters affecting them.

The new laws take a broad view of who is a sibling and give legal rights to both children who have parents in common and children who are not related by birth but have lived together and see themselves as brothers and sisters. This recognises the range of relationships Care Experienced children may have with the character of a sibling relationship.

Legislation now contains positive legal duties on local authorities, which can be enforced in court if they are not followed. They must:

- place siblings, where appropriate, with the same carer or in the same residential establishment, or (if it is not appropriate for them to live together) in homes which are near to each other (if appropriate). The law has been changed to allow more flexibility in the number of children foster carers can care for at one time;
- support brothers and sisters' relationships where they are not able to live together by taking regular steps to promote personal relations and direct contact between the child they are caring for and their siblings;
- before taking decisions about a child in their care, ask the child's brothers and sisters for their views on what should happen and have regard to those views.

In Scotland 'Children's Hearings' take legal decisions about children's care and protection.⁶ These decisions can be appealed to a court. The legislation now creates duties for Children's Hearings and courts:

- they must consider children's contact with brothers or sisters and whether a legal order is needed for that;
- Children's Hearings must give brothers and sisters an opportunity to take part in the legal process when decisions are being made which will affect them seeing each other;
- when courts are making decisions about where children are going to live and who they have contact with, the court must take account of children's important relationships, such as those with their brothers and sisters.

Taken together, all these changes will help ensure that children's sibling relationships are protected and supported and that decisions about siblings are based on much fuller information about the children's situations and views.

⁶ For information about the distinctive Scottish Children's Hearing System go to <https://www.gov.scot/policies/child-protection/childrens-hearings/>.

7. Ensuring lasting change

To protect rights and promote the wellbeing of brothers and sisters with care experience not only requires changes to the law, but advancements in policy, guidance, legal and welfare practices and the culture of organisations. Fundamental to this is listening to children and young people and understanding the importance of their relationships.

Guidance is due to be published by the Scottish Government to help support implementation of the new laws. CELCIS (a Stand Up for Siblings member) has collaborated with people who will be affected by the changes and other key stakeholders to develop the guidance with the Scottish Government, which should cover matters such as decision-making, ensuring quality contact, and considering and recording views.

Implementation measures required to ensure meaningful, positive change in the experience of siblings in the care system are many and varied. They include:

- strategic engagement across sectors such as housing, social care, education and health to anticipate the needs of siblings in care and plan future investment;
- analysing systemic barriers to sibling co-placement and positive relationships and collaborative innovation to overcome these;
- providing sufficient resources and deploying these flexibly;
- targeted recruitment of and support for foster carers and prospective adopters who will support siblings to be together and help nurture their relationships.

The changes being made are taking place in the context of two other important developments in Scotland. One is the incorporation into domestic law of the rights in the United Nations Convention on the Rights of the Child, making them directly enforceable in Scottish courts. Government Ministers and public bodies will have new duties to ensure children's UNCRC rights are respected and upheld. The other is the implementation of the recommendations of the Independent Care Review published in February 2020, as discussed above. Both are vitally important to ensuring the environment in which the new laws for siblings will be successfully implemented for all children and young people now and in future generations.

This submission was written in June 2021. For further information please go to <https://www.standupforsiblings.co.uk/contact-us/>