

# STAYING CONNECTED PROJECT

Care-experienced children and young people with  
a sibling in prison or secure accommodation

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# Keep  
The Promise



SCOTTISH  
CHILDREN'S REPORTER  
ADMINISTRATION



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# Executive Summary

## Background

This research is part of a joint project between the Scottish Children's Reporter Administration (SCRA) (the organisation which facilitates the work of Children's Reporters and Children's Hearings) and Families Outside (Scotland's only national charity that works solely on behalf of families affected by imprisonment). It is funded by The Promise Partnership. The Promise Partnership is independent of The Promise Scotland and is delivered by the Corra Foundation on behalf of the Scottish Government. It invests in organisations and collaborations to help #KeepThePromise.

The research took place in the context of the publication of The Promise in 2020, which made it clear that "*Relationships between brothers and sisters will be cherished and protected*" and the introduction in 2021 of legislation<sup>1</sup> which placed duties on local authorities in terms of maintaining relationships between siblings who were unable to stay together. The case of sibling separation where at least one has been deprived of their liberty and is within a prison or secure care setting is a specific type of sibling separation. It can often be overlooked when considering sibling separation within care arrangements.

We know about the significant impact on children and young people who are separated from siblings through care arrangements. We also know about the negative effects of sibling imprisonment on children and young people generally and of some of the issues which can arise for care-experienced children when their mother goes to prison. Yet there is little understanding of the unique experiences of children and young people who are care-experienced and separated from their siblings where at least one is in prison or secure care. The concern is that this separation is even more profound, with little recognition of, or support for, the need to maintain sibling relationships in this context.

## Aims

This research aims to begin to address the gaps in knowledge around 'looked after'<sup>2</sup> children and young people's experiences of sibling<sup>3</sup> separation where their brother or sister is in prison or secure care. It provides an estimate as to the levels of sibling imprisonment for care-experienced children and young people and what data were held in terms of this within SCRA's case management system (CSAS). It then went on to explore the issues around the identification, restoration and maintenance of sibling relationships where one sibling is care-experienced and one is within prison or secure care.

## Methods

The research consisted of a mixed methods research design. A case file analysis on CSAS, SCRA's case management system, involved a sample of 200 children who were aged 15 or 16, were subject to a Compulsory Supervision Order (CSO) and

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1. [Children \(Scotland\) Act 2020](#), the [Looked After Children \(Scotland\) Amendment Regulations 2021](#) and the [Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021](#).

2. "Looked after" includes children with Compulsory Supervision Orders made by Children's Hearings, those in the care of a local authority on a voluntary basis, those with Permanence Orders made by the courts, and those in informal kinship care. They can be living at home, with kinship or foster carers, in residential units/schools or secure units.

3. Siblings are full, half and step-siblings as well as "sibling-like" relationships as defined by the child.

had a Children’s Hearing between 1st October and 31st December 2021. Data were collected on the children’s sibling relationships and the data held on any sibling identified as being or having been in prison. A sample of 1000 entries on Families Outside’s database was taken from the period 1st April 2021 to 31st March 2022 to identify any case where a child or young person (up to age 18) had a brother or sister in prison and the child or young person was in care or care-experienced.

Qualitative interviews were carried out with 12 children and young people, 4 Social Workers and 5 Children’s Reporters. Research participants spoke about their experiences of either being within prison or secure care with a care-experienced sibling, being a care-experienced child or young person with a sibling in prison or secure care, or having worked with those with these experiences.

## Key Findings

Of the 200 children within the CSAS sample, nine had thirteen siblings between them where it had been recorded that the siblings had been in custody at some point. Therefore, 4.5% of the sample had at least one sibling who was/had been in prison. The majority of the imprisoned siblings were male and either full or maternal half-siblings. Of the 13 siblings identified as being or having been in prison, eight were recorded as having lived with the child at some point.

The sibling groups for these nine children contained between four and eleven siblings in each sibling group, giving a total of 65 individuals across these groups. Therefore, while only thirteen siblings from this sample may have been in prison, this may have impacted on a total of up to 59 of their siblings across their sibling groups – this includes 24 children (aged under 18 at the date of the Index Hearing). This information is outlined in tabular form in Table 1 below.

**Table 1: Impact of sibling imprisonment**

Index Child	No. in Sibling Group	No. of Siblings who were/had been imprisoned	No. of people potentially* affected by sibling imprisonment
1	9	1	8
2	5	1	4
3	7	2	7
4	11	2	8
5	6	1	10
6	6	1	5
7	6	1	5
8	8	3	8
9	5	1	4
<b>TOTAL</b>	<b>65</b>	<b>13</b>	<b>59</b>

\* It should be noted that the data do not tell us anything about the relationships within these sibling groups, though the Index Child<sup>4</sup> was recorded as having been known to have lived with 37 of the siblings within these groups.

4. The Child contained within the CSAS sample.

During the process of carrying out this research, it became clear that there was a lack of data recorded within both CSAS and Families Outside's databases that allowed cases of care-experienced children and young people who had a sibling in prison to be easily identified. This was also the case for local authority databases.

The work taking place towards implementing The Promise and the sibling legislation has meant that more conversations are taking place between children and their Social Workers around their sibling relationships. They are also now being consistently asked about these within Children's Hearings. There is, however, still a lack of consistency in terms of the information which is provided on sibling contact prior to a Children's Hearing. Sibling Contact Forms<sup>5</sup> were not consistently submitted for children within the CSAS sample, neither was there a record of a Participation Individual<sup>6</sup> assessment taking place consistently across all the cases in the sample.

From the interview data, it was also clear there were issues with the sharing of information between Social Workers where sibling groups did not share a worker. There was also a lack of knowledge by some Social Workers around a sibling's imprisonment where they are not notified of this, and children and their families may be reluctant to disclose this and the details around it. This was less of an issue where a sibling was in secure care, where there would be social work involvement around this.

All but one of the children and young people who took part in this research had experienced separation from their brothers and sisters due to being within different care placements. This was prior to one of the siblings entering prison or secure care. In almost all of these cases, the period of separation was significant, with minimal contact between the siblings. The key findings should therefore be read in the context of having to rebuild some of these relationships and not simply maintain them. The state has a responsibility to understand and support both.

The children and young people spoke of the significant emotional impact this separation had had on them, describing it as:



**Devastating. Breaks you really."**

**...damaging..."**

**I was broken [...] soul destroying"**

**...being strangers..."**

5. Forms completed by Social Workers to provide information on sibling relationships to SCRA in advance of a Children's Hearing.

6. A Participation Individual is a sibling of a child who is the subject of a Children's Hearing who has been assessed to have "participation rights" under the [Children \(Scotland\) Act 2020](#).



...very isolating..."

...it felt foreign..."

...heart-breaking..."

...your heart's just dismantling."

Many of the young people who were in prison themselves also raised the importance of children's or bonding visits being open to all children and not restricted to those only visiting parents. Video calls to those in prison also offered opportunities for people to be part of their family in more natural ways, such as watching TV together or helping younger siblings with their homework, though there is an inequality of digital access which will impact on the ability of some to access this resource. This is particularly important when thinking about the care-experienced community as access to suitable devices and digital literacy can be a particular issue amongst those within this community (Sanders, 2020; Roesch-Marsh et al., 2021).

Simultaneous imprisonment, where children and young people were serving a sentence or were in secure care at the same time as a sibling, was spoken about by five of the six young men who were currently in prison and one of the Social Workers. This is generally overlooked in research, policy and practice, where siblings are generally thought of as being outside within the community. There is a level of inequality around the contact which is able to take place between these siblings, with a lack of clarity around what is permitted and what can be asked for. Where the siblings were able to keep in touch with each other, there were examples of prison officers facilitating this contact between siblings in different Halls in the same prison, as well as in different prisons, and their understanding of the importance of supporting these relationships. These relationships could also be viewed more in terms of risk by the prison, however, despite them providing a level of support for siblings who were in custody at the same time.

## Implications and conclusions

The increased focus on the importance of sibling relationships for care-experienced children and young people is important and welcomed. The lack of data, however, means that we are currently unable to monitor and evidence if we are meeting their needs, implementing the changes introduced by the legislation and **#KeepingThePromise** for care-experienced children and young people in Scotland.

While there are, fortunately, relatively small numbers of children and young people within secure care and prison in Scotland, these can be some of the most vulnerable within our society. The separation of siblings, where one is in prison or secure care, is significant in its impact on children and young people, regardless of whether they choose to see and keep in touch with this person. This specific separation experience is still not sufficiently recognised or understood. This report begins to address some of the gaps in this knowledge, but more work needs to be done to understand these experiences fully and to address the needs of siblings who are separated where at least one has been deprived of their liberty.

We must also work to reduce the high levels of criminalisation of care-experienced children, as called for by The Promise, to reduce the disproportionate levels of those with care experience within the prison system, and to reduce the prison population overall in Scotland. In doing so, we would reduce the numbers of children and young people impacted by this type of sibling separation and the need to then maintain these relationships within these environments. Where separation does occur, whether through the placement of a sibling in prison or secure care, we must uphold these children's rights in terms of their sibling relationships. While the sibling legislation and implementation of The Promise may see sibling separation reduced for those in care, we must not forget those who have already been impacted by these previous separations, recognising the need and obligation to support the rebuilding, as well as simply the maintenance, of these relationships.

## **Recommendations**

A full list of the recommendations arising from this piece of research are contained within the relevant data sections, as well as all together in Chapter 6, in the main body of the report below. They are sub-divided within Chapter 6 under each of the Key Themes which are summarised below:

### **Raising awareness and understanding**

Raising awareness of the impact of sibling imprisonment where one is in prison or secure care, and the accentuating impact of care-experience on this.

### **Support and Rights**

Stakeholders should ensure that children are aware of their rights to maintain and rebuild sibling and sibling-like relationships. They should also receive support regardless of whether they choose to maintain or rebuild these relationships or not.

### **Processes**

For services to share information and ideally for families affected to have the same social worker. Services should ensure that asking about contact is not a one-time offer. Support should be provided to children and young people within secure care and prison to maintain contact, for example, through visits and by phone. There should be a focus on the quality as well as the quantity of this contact.



## Data

That stakeholders record the sibling and sibling-like relationships that are important to children in care or prison systematically, taking account of both maternal and paternal sides, to support the maintenance and rebuilding of relationships.

The recommendations are made in an awareness of the current context that all organisations in Scotland are working within, where restricted budgets and limited resources will make the implementing of some of these recommendations challenging. This will apply across the range of stakeholders for whom these recommendations are relevant – local authorities, organisations within the Children's Hearings System, secure care providers and prisons. The recommendations have been made, however, as they are what the data speak to as being necessary and are what the relevant legislation sets out as the rights of these children and young people.

In summary, the main recommendation from this piece of work is that local authorities, organisations within the Children's Hearings System, residential and foster care providers, secure care providers, and prisons need to work collectively to better support children and young people to maintain their relationships with their siblings. There are five key steps that these organisations can collectively take to achieve this:

1. **IDENTIFY** which care-experienced children and young people have a sibling in prison or secure care, and ensure that this information is recorded and shared with appropriate partner agencies.
2. **INFORM** all children and young people about their rights to have a relationship with their sibling(s).
3. **INQUIRE** whether or not the young person wants to see or keep in touch with their siblings.
4. **INPUT** the young person's choice about whether they want to see or keep in touch with their sibling(s) into the young person's care plans and all discussions relating to these.
5. Where the young person wants to see or keep in touch with their sibling(s), work collectively to identify ways to **IMPLEMENT** their decision.

# Acknowledgements

Most importantly, thank you to all the participants who took the time to share their experiences with me during this piece of research. These often covered difficult experiences of separation and were shared not with the expectation of changing their own experiences but of improving things for children and young people in the future.

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# 1. Introduction



*Siblings can be as important as parents in the lives of those who have them. While parents have been likened to the doctors doing their ward rounds to see the bigger picture, siblings have been likened to the nurses: they are there every day."*

UK Supreme Court Judgment (2020, para 1)

The wording used in this judgement reflects the growing understanding of the importance of sibling relationships in the lives of children and young people, particularly as in this case, those who are care-experienced. While all sibling relationships are not the same, and may not all be close, they are regardless some of the longest lasting relationships in someone's life. They are expected to last longer than those with parents and be in place before those with partners and children from new family units. They can represent a unique bond in someone's life where they have grown up together and shared experiences, whether good or bad (Russell et al., 2018).

How these sibling relationships are defined has been affected by the changing nature of families and can now include full, half and step-siblings as well as "sibling-like" relationships (Scottish Government, 2021b). This is where there does not need to be a shared parent for the children to be viewed as brothers and sisters but is defined by the child.

There are numerous reasons that siblings can find themselves separated. This could be down to parents separating and children living in different households, or temporary periods of separation where a child may spend lengthy periods of time in hospital. Where the state intervenes in these relationships, however, this can often be due to a child or children becoming involved in the 'care system'<sup>7</sup>, or the intervention of the criminal justice system through the imposition of a period of custodial remand or sentence for one or more of the siblings. There are some parallels between the experiences between these two forms of separation, and the separation through imprisonment can also follow a previous separation due to state intervention through formal care arrangements. There is also a potential compounding of these experiences of separation where both care processes and the criminal justice system are, or have been, involved.

This report will explore the experiences of brothers and sisters who are separated where one or more siblings are within a prison or secure care setting. While there has been an increased focus on keeping brothers and sisters together, this is not something which is possible in this scenario and is therefore a somewhat unique, and little-explored experience. There is extensive research which tells us there can be numerous negative impacts on children and young people's sibling relationships on their entry to, and during their time within, care placements,

7. The Promise made it clear that there was not a single 'care system' and that care arrangements are instead based on a multitude of systems that often fail to communicate and connect with each other. Where possible, we have not used the phrase 'care system' within this report, however, have done so where alternative phrasing did not accurately convey the meaning we intended.

and that these are experienced in the context of further trauma and loss in their lives at this time. While more limited, research also tells us that the impact of a sibling's imprisonment can be significant, and overwhelmingly negative, on children and young people. We also know that where children and young people are care-experienced that this can compound their experiences of parental imprisonment. This would all suggest that care-experienced children and young people have specific experiences of sibling imprisonment, and by extension, also where siblings have lost their liberty due to a period spent in secure care. With disproportionate numbers of care-experienced children and young people within the prison system (Laming, 2016; Broderick and Carnie, 2019) and around two-thirds of children in care having at least one sibling who is also in care (Ofsted, 2012b), this suggests this is an experience that care-experienced children and young people will be dealing with. Yet there is little understanding of these unique experiences of sibling separation.

This piece of research begins to address this lack of knowledge and understanding. It is part of a joint project between the Scottish Children's Reporter Administration (SCRA) (the organisation which facilitates the work of Children's Reporters and Children's Hearings) and Families Outside (Scotland's only national charity that works solely on behalf of families affected by imprisonment). It is funded by The Promise Partnership, which is independent of The Promise Scotland and is delivered by the Corra Foundation on behalf of the Scottish Government. It invests in organisations and collaborations to help #KeepThePromise. Funding was received in November 2021 for a two-year period.

The report defines care-experience widely and covers all 'looked after' children and young people. This includes children subject to Compulsory Supervision Orders (CSOs) made by the Children's Hearings System, those in the care of a local authority on a voluntary basis (section 25 of the Children (Scotland) Act, 1995), and those subject to a Permanence Order made by the Courts. The children and young people included could be living at home, with kinship or foster carers, in residential units/schools or secure accommodation. Young people who were not looked after but were adopted, or cared for informally by a kinship carer were also included<sup>8</sup>.

A wide definition of siblings has also been taken, as per the Children (Scotland) Act 2020 legislation and the Staying Together and Connected: getting it right for sisters and brothers National Practice Guidance (Scottish Government, 2021b). It therefore covers full, half and step-siblings, as well as "sibling-like" relationships (e.g. within foster families, kinship care placements or residential care settings) as defined by the child or young person.

Recommendations have been included throughout the report and then compiled together in a separate section at the end. These have been used to highlight and draw out the key gaps and learning that has come from this piece of research. There are 42 recommendations in total which are grouped under six thematic headings – Raising Awareness and Understanding, Support and Rights, Process,

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8. 'Informal kinship care' as described within section 22 of the Children (Scotland) Act 1995 and Part 13 of the Children and Young People (Scotland) Act includes children who are living with kinship carers under Residence Orders, Guardianship Orders or as the result of an informal arrangement between the parent(s) and kinship carer(s). In all of these situations the child or young person could have had no previous social work involvement and would not be legally defined as a 'looked after child'. The inclusion of these groups within the research reflects the definition of care used within Scotland's Independent Care Review, "The Promise".

Data and Further Work. They are intended to indicate what key organisations involved in the Children's Hearings, care and criminal justice systems may wish to consider going forward in order to support those affected by sibling separation while one sibling is in prison or secure care.

The recommendations are made in an awareness of the current context that all organisations in Scotland are working within, where restricted budgets and limited resources will make the implementing of some of these recommendations challenging. The recommendations have been made, however, as they are what the data speaks to being necessary, and are what legislation sets out are the rights of these children and young people. They are also made with an awareness that there are operational considerations which must be taken into account where decisions are made within prisons and secure care settings but are here to raise awareness of what should be thought about when decisions are being made within these settings.

## 1.1 Familial (Sibling) Imprisonment

While there are estimates of the levels of children who experience the imprisonment of a parent each year in Scotland, said to be around 20 - 27,000 (McGillivray, 2016), there are no estimates of the levels of children and young people experiencing the imprisonment of their brother or sister.

The overwhelmingly negative impacts on children and adults of a family member's imprisonment are well-established (see Codd 2008; Murray and Farrington 2008; Aaron and Dallaire 2010; Hagan and Foster 2012; Condry et al., 2016; Minson 2020). Where we talk about family in the case of children and young people, however, this tends to be limited to considering parental imprisonment.

The limited work looking at sibling imprisonment for children and young people tends to reflect the findings from the wider body of literature around parental imprisonment. Where it looks at the relationship between the imprisonment of a sibling and a child's future offending behaviour, some research has shown this as a predictor of future behaviour (Farrington et al., 1996; Farrington et al., 2001). It is important to note that these pieces of work do not establish causation, and neither do they explain why multiple siblings may be involved in offending behaviour.

Where the voices of children and young people themselves are included in the work, the findings showed the closeness of some of these sibling relationships, particularly for older children and teenagers where this particular life stage can involve becoming closer to siblings than parents (McGue et al., 2015). They highlight the unique role siblings can play in children's lives, while also including some examples of where they had taken on a more (informal) parental role. The emotional impact of a sibling's imprisonment on children and young people could be seen through feelings of loss, sadness and worry, as well as stigma and judgement, whether experienced or perceived (Meek, 2008; Deacon, 2022a).

In terms of maintaining a relationship with a sibling who is in prison, children can find themselves unable to attend children's visits where these are often for children as defined by their age, i.e. under the age of 18, and their relationship with the person in prison, i.e. parent/child, though this is changing in some prisons. There can also be a lack of support for children and young people with a sibling in prison where, although peer support groups may be for anyone with a "family member" in prison, often there is a predominant focus on parental imprisonment, whether this is explicit or assumed. This lack of support was both when the sibling was in prison but also following their release, where relationships did not just return to what they once were, and the impact of sibling imprisonment continued beyond this time (Deacon, 2022a).

## 1.2 Secure Care/Accommodation

There are currently five secure care centres within Scotland. Four of these are run by third sector organisations: the Good Shepherd Centre, Kibble Safe Centre, Rossie and St Mary's Kenmure. The fifth is operated by Edinburgh City Council (Whitelaw and Gibson, 2023). There are 78 places across these five locations. An average of 76 children experienced secure care at any given time in 2020/21 with a total of 177 admissions over the one-year period (Scottish Government, 2022).

Children may be placed in secure care due to them posing a significant risk to themselves or to others. A child may be placed in secure accommodation where they are being provided with accommodation by a local authority under Section 25 of the Children (Scotland) Act 1995, are subject to a Permanence Order or where an (Interim) Compulsory Supervision Order is imposed by a Children's Hearing. In all these cases this requires authorisation by the Chief Social Work Officer. They can also be placed in secure care when serving a period of remand or a custodial sentence imposed by a court. Regardless of the route into secure care, the setting involves a loss of liberty for the child, as they reside in a secure setting.

There is limited up-to-date research on secure care (e.g. Byrne, 2018; Hart & La Velle, 2016; Miller and Baxter, 2019), though recent work carrying out a census across secure accommodation in Scotland has seen an increase in available data (Gibson, 2020; Gibson, 2021; Whitelaw and Gibson, 2023). While this work doesn't contain the voices of children themselves, and the census didn't specifically explore family relationships, it does show the importance of these relationships, with staff mentioning family as a strength or protective factor for almost half of the children in their care (Gibson, 2021). Favourable comparisons have also been made between the opportunities for children around maintaining family relationships within secure care compared to within a Young Offenders Institution (YOI) setting (Whitelaw and Gibson, 2023).

The Promise (Independent Care Review, 2020) stated that children (those under the age of 18) should not be held within a YOI and should instead serve any period of remand or custodial sentence in a secure care setting. In terms of family, again the emphasis is that "[a]ll children must be supported to continue

*relationships that are important to them, where it is safe to do so*" (The Promise, 2020, p. 63), including those within the secure care setting.

The Scottish Government (2020) has also published guidance on secure care through the Secure Care: Pathway and Standards. This sets out what support should be provided to children before, during and after a placement in secure care. Standards 25-28 specifically refer to relationships and family and are around the child being supported to maintain these relationships and have a say in how and when this happens. They also cover family members being treated with respect and that time spent together is in a suitable environment within the secure accommodation. These Standards include a wide definition of who a child may wish to be in contact with, including family but also "*other people who are important to me*" or "*people I care about*". In terms of sibling relationships, this could cover those who would be termed "sibling-like" and deemed important by the child.

In terms of the experiences of family members of those in secure care, very little research exists which explores this. That which does is historic but talks about issues such as a lack of support or sources of information for family members. For example, the worry when someone is within secure care, lack of information or provision of assistance around travel costs and the distance children can be held from their family home (Malloch, 2013). Some of these are likely to still be relevant today. This report also spoke of siblings in particular, noting that while brothers and sisters were encouraged to visit the child in secure care in some instances, in others they were not told where their sibling was, and provision for this across the secure estate was not consistent. There were also cases where parents were concerned about siblings visiting in that environment and that there was a lack of support available for them (Malloch, 2013).

Given that this report covers the experiences of a sibling being in secure accommodation or prison, it may be useful to highlight the overlap between these populations. Surveys of people held in prison have shown that almost a tenth of the prison population has been in secure care (Carnie et al., 2017)<sup>9</sup>. Where we look specifically at the population of young people within prison, a study of 14 people held in HMP&YOI Polmont found that half had been in secure care (Nolan et al., 2017).

### 1.3 Care-experienced Sibling Separation

There is no single figure to represent the levels of sibling separation within the 'care system', with values ranging from 17% to 37% of children who are separated from all of their siblings (Albert and King, 2008; Ashley and Roth, 2015; McDowall, 2015; Jones and Henderson, 2017) and between 33% and 74% separated from at least one sibling (Albert and King, 2008; McDowall, 2015; Ofsted, 2012b; Wojciak et al., 2013; Woods and Henderson, 2018; de Souza, 2023). This range of values can be accounted for due to different methods being used to collect the data on which the calculations are based, but figures can also vary depending on the

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<sup>9</sup>. The Prisoner Survey is an anonymous, self-reporting questionnaire, so therefore definitions of care experience may not have been consistent or broadly understood when answering questions on this.

age of the children and their placement type (Wojciak et al., 2013; Woods and Henderson, 2018; McDowall, 2015). Siblings are more likely to be kept together in kinship care and less likely to experience this in residential care (Ashley and Roth, 2015). There is also evidence that children have not always had the opportunity to develop relationships with some of their biological siblings, with some not even being aware that these siblings exist (Jones and Henderson, 2017).

For children subject to care placements, their siblings may be one of the family relationships most likely to continue across different placements, providing continuity and support even when they leave care and become adults (Ashley and Roth, 2015; de Souza, 2023). Positive sibling relationships have also been known to help children cope with the adversity of trauma faced as they grow up (Gass et al., 2007; Wojciak et al., 2018). Particularly related to separation, siblings who have been placed together experience better mental health and greater placement stability, and there is a positive impact on their family relationships as well as their own sense of identity and belonging (Tarren-Sweeney and Hazell, 2005; Wojciak et al., 2013; Waid et al., 2016; Neil et al., 2013).

Sibling bonds are not only important in terms of reducing the impact on children when they enter care but also while they are subject to care arrangements (Herrick and Piccus, 2005). Those who have had stronger sibling relationships while in care have shown greater levels of social support, self-esteem and income, as well as sibling relationships continuing into adulthood compared to those who had not had these relationships in childhood (McDowell, 2015).

In parallels to research on children's experiences of a family member's imprisonment, children who enter foster care can experience "ambiguous loss" (Boss, 1999) in terms of the loss of contact with family members including their brothers and sisters (Mitchell, 2016). The concept of disenfranchised grief is another parallel between the experience of siblings separated through care arrangements (Mitchell, 2016) and those separated where one is in prison (Arditti, 2005; Roberts and Loucks, 2015). The multiple losses a child experiences during placement moves, including loss of "sibling-like" relationships, are rarely acknowledged in terms of being non-death losses, similar to the loss of a sibling when remanded or sentenced to a period in prison.

Where contact takes place between siblings living separately, a significant proportion of care-experienced children feel they see their siblings too little. 22% of 8-10 year olds and 31% of 11-18 year olds had a lower level of contact than they wanted, seeing them feeling sad, angry and unsettled in their placement (Lewis et al., 2022). Levels of contact tend to drop over time spent in care despite the fact that children expressed the desire to have more contact (Neil et al., 2013; Morgan, 2009). In a survey of children in care, just over half of the children reported seeing their brother or sister at least once a month, with slightly less (38%) saying this contact took place at least once a week (Morgan, 2009). The figures dropped for those who had spent longer in care, from 80% of those who had been in care less than two years reporting that they saw their



sibling once a month, to 55% for those who had been in care for between two and six years. This dropped further to 41% for those who had been in care for over six years (Morgan, 2009).

Barriers to this contact taking place can come from caregivers lacking the resources to support the maintenance of these relationships. Caregivers' experiences or perceptions around their own familial relationships, or those with the child's biological family, can influence their decision-making around supporting contact (James et al., 2008).

## 1.4 Care-experienced Familial Imprisonment

There is little literature which specifically examines the experiences of familial imprisonment for care-experienced children and young people. That which does can focus on the experiences of children who enter care on the imprisonment of a parent, often their mother who was their primary carer, with a focus on what this means for where they end up residing. For example, in the case of imprisoned fathers, the mother tends to continue to care for the child in the vast majority of cases (Hairston, 2009; Caddle and Crisp, 1997) while where mothers are imprisoned, only around 9% of children are cared for by their father (Boswell and Wedge, 2002). In the UK, only 5% of children remain in their family home when a mother goes to prison (Home Office, 2007). Instead, children tend to be cared for by grandparents or other relatives, with around half residing in foster care or within a children's home (Prison Advice and Care Trust, 2011).

Where children are within kinship care, often their carers are grandparents (Beresford, 2018). This can bring financial and health issues (Raikes, 2016; Beresford, 2018; Kidnar, 2016; Connolly, 2003; Cuddeback, 2004) which could impact their ability to support the maintenance of relationships with someone in prison. This could be in terms of providing money to the person in prison or supporting the maintenance of relationships through telephone calls or visits. Kinship carers are more likely to care for larger groups of children than foster carers to ensure sibling groups are not separated. This can result in overcrowding within the home and puts further pressure on finances for the caregiver themselves, with the potential for this to impact on their ability to support the maintenance of a relationship with a family member in prison. The financial impact on kinship carers generally (Kidnar, 2016) can combine with that of families affected by imprisonment (Nugent, 2022), compounding each other and further impacting these families. While the work by Nugent (*ibid.*) did involve kinship carers, their data was not separated out from the sample more generally, so did not allow any conclusions to be drawn in terms of their specific experiences.

As outlined above, carers can be the "gatekeepers" of contact in relation to children in care generally (James et al., 2008), but this may have specific implications where the person the child wants to see or keep in touch with is in a prison or secure care. Relationships between parents in prison and caregivers outside may have been difficult even prior to the imprisonment due to the

person's involvement in criminality or other issues such as substance misuse. This can lead to caregivers attempting to protect themselves, or the children they are caring for, by controlling the access to the parent in prison (Hairston, 2009). This can also be true of social work, where imprisoned parents believe that Social Workers make the assumption that children should not visit a prison. For example, some of the mothers in Beresford's (2018) research noted that they received regular supervised visits with their child prior to their imprisonment but that this did not continue following their entry to custody. There have also been differences noted where a child is experiencing maternal imprisonment and is staying in either maternal or paternal kinship care, with the latter being more problematic in terms of sustaining this relationship (Primrose, 2021).

Where children are within residential care, this can result in greater barriers to maintaining relationships with a parent who is in prison. Compared to when the child was in kinship care, there appeared to be less investment in maintaining the relationship. The lack of a family network to support visits and a reliance instead on residential staff, who were not always able to take the child to the prison, saw differential experiences by children dependent on the type of care placement they were in (Primrose, 2021).

In terms of care-experienced children and young people who may be experiencing a sibling's imprisonment, the disproportionate numbers of care-experienced children and young people within the prison system (Laming, 2016; Broderick and Carnie, 2019) and the fact around two-thirds of children in care have at least one sibling who is also in care (Ofsted, 2012b), suggests this is an experience that care-experienced children and young people will be dealing with. While existing research tends to focus on care-experienced children and young people with a parent in prison and the experiences around this, there are likely to be similar issues and considerations required where it is instead a sibling who is in prison.

## 1.5 Current policy and practice

Within Scotland, there are overarching policies which refer to the rights and lives of all children in Scotland, for example the United Nations Convention on the Rights of the Child (UNCRC), The European Human Rights Convention (EHRC) and the Getting it Right for Every Child (GIRFEC) framework. There are also policies and practice documents that relate specifically to care-experienced children, and those experiencing separation from a sibling whether through intervention by care arrangements or the criminal justice system. A full list of the legislations and policies that are relevant to the maintenance of sibling relationships can be found in Appendix 1, and are briefly described here.

Sibling relationships in the context of the Children's Hearings System are governed by the following legislation: The Children (Scotland) Act 2020, the Looked After Children (Scotland) Amendment Regulations 2021 and the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021<sup>10</sup>. This has seen duties placed on local authorities to keep siblings together,

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10. Where the "sibling legislation" is referred to in the rest of the report, this refers to this collection of legislation.

as well as promote contact with siblings where this is not possible. It also ensures that children have their views heard around the relationship with their brothers or sisters. This legislation also placed a duty on Children's Hearings explicitly to consider contact with siblings and provided an opportunity for siblings to be designated as Participation Individuals with rights to participate in Hearings for their siblings where contact is being discussed.

Following the introduction of this legislation, National Practice Guidance, *Staying Together and Connected: Getting it right for sisters and brothers*, was produced by the Scottish Government (2021b). While much of the document focuses on siblings within care arrangements more generally, sibling imprisonment is mentioned in the "Areas for special attention", stating "A child may have a brother or sister who is in prison – such a situation should not of itself preclude contact between them taking place." (p. 69). Following the introduction of this Guidance, a Staying Together and Connected National Implementation Group was set up, with their final report published in June 2023. It covers five priority areas: People, culture and practice; Connections and staying connected; Rights; Housing; and Understanding impacts and lived experience. It emphasises the commitment of social work to "retain" but, importantly, to also "(re)establish" sibling relationships where this is necessary, and again includes that this is for "sibling-like" relationships as well as blood relatives for children and young people.

The Independent Care Review (2020) was a "root and branch review of care" within Scotland and resulted in the production of *The Promise*. It recognises the importance of maintaining connections and relationships for children and young people who are in care, stating that "all children must be supported to continue relationships that are important to them, where it is safe to do so" (p. 63). This will obviously cover relationships with brothers and sisters, and those who are seen as "sibling-like" within their lives.

Where *The Promise* discusses familial imprisonment, it is solely in terms of parental imprisonment, noting that, "*Scotland must reduce the worry for children of imprisoned parents so that the experience of prison visiting is as positive and non-stigmatising as possible. Where it is safe to do so, the relationship between child and parent must be supported.*" (p. 53). While not explicitly referring to sibling relationships in terms of imprisonment, these relationships have been shown to be important in children's lives, and perhaps particularly for those who are care-experienced, with some children prioritising contact with their brothers and sisters over their parents (Lewis et al., 2022). Siblings may also have played an informal caring role within a child's life, meaning that this experience of parental imprisonment will also apply while their brother or sister is in prison, though this is not always recognised where it has not taken place through a formal kinship care placement and recognition of their sibling as their carer.

In terms of the criminal justice system in Scotland, there is a wide definition of family taken within the Scottish Prison Service (SPS) Family Strategy (2017). It states that the "SPS recognises that individuals have many ways of defining

what constitutes family and what being a part of a family means to them" (p. 5). In practice, however, where children and young people are concerned, there is often a focus on them experiencing a parent's rather than another family member's imprisonment. Particularly in terms of children's visits, these can often be for those who are a child in terms of their age, e.g. under 18, but also in terms of who they are visiting, e.g. a parent. While this is changing in some prisons, this is not consistent across all establishments. The Family Strategy is currently being refreshed, and the new publication may address some of these issues.

Overarching these policies and legislation are the UNCRC and ECHR rights to a family life. While some of these rights may apply specifically to children and their parents, those that apply more widely will include relationships with siblings. The following will govern how we think about these sibling relationships in a rights-respecting way and could apply to children and young people both outside and inside the prison or secure care setting:

**Article 8 of the ECHR** – a right to respect for one's private and family life, home and correspondence.

**Article 2 of the UNCRC** – a right to protection against discrimination.

**Article 3 of the UNCRC** – best interests of the child.

**Article 12 of the UNCRC** – a right to participation, that the child's voice should be heard in matters that affect them directly or indirectly.

**Article 37 of the UNCRC** – the right for children deprived of their liberty to maintain contact with their family through correspondence and visits.

**Article 9 of the UNCRC** also lays out children's right to contact with family, though is specific to contact with parents. It states that children must not be separated from parents against their will unless it is in their best interests, and that they have a right to stay in contact with their parents unless this could cause them harm.

Considering the rights of all children within Scotland, the Getting it Right for Every Child (GIRFEC) framework applies to all children and was implemented in 2011 with a recent refresh in 2022. It aimed to reflect the principles of the UNCRC and to make the provision of services and decision-making around children in Scotland a child-centred approach. Including principles to ensure that everyone is treated fairly and to address inequalities, this model will apply to those who are separated from their siblings in terms of ensuring their rights to maintain these relationships are recognised and upheld.

## 2. Methodology

The research design was mixed methods, involving an analysis of case files held within SCRA's case management system (CSAS), an analysis of entries within Families Outside's database and interviews. The project initially focused on care-experienced children and young people who had a sibling on serving a period of custodial remand or sentence in prison or secure accommodation. Interviews were therefore initially intended to be held with the following groups:

- Care-experience children and young people with a sibling who is or has been on remand or sentenced in prison or secure accommodation
- Children and young people with experience of being on remand or sentenced in prison or secure accommodation with care-experienced siblings

Within this research, "care-experience" means all "looked after" children and young people. This includes children subject to Compulsory Supervision Orders (CSOs) made by the Children's Hearings System, those in the care of a local authority on a voluntary basis (section 25 of the Children (Scotland) Act 1995) and those subject to a Permanence Orders made by the courts. The children and young people included could be living at home, with kinship or foster carers, in residential units/schools or secure accommodation. Young people who were not looked after but were adopted, or cared for informally by a kinship carer were also included.

A wide definition of siblings has been taken, as per the Children (Scotland) Act 2020 legislation and the Staying Together and Connected: getting it right for sisters and brothers National Practice Guidance (Scottish Government, 2021b). It therefore covers full, half and step-siblings as well as "sibling-like" relationships (e.g. within foster families or residential care settings) as defined by the child or young person.

It is recognised that work around language use around care and care-experience has raised the issue of the use of "sibling" and that this should instead be "brothers and sisters". This, however, may fail to recognise the "sibling-like" relationships in children and young people's lives. This report uses "siblings" and "brothers and sisters", and both of these include biological and step-siblings as well as "sibling-like" relationships.

Following the completion of the analysis of the CSAS case files, an amendment was submitted to the original ethics application to allow interviews to take place with Reporters and Social Workers who had worked with the above groups of children and young people. These were to explore further the processes which lay behind the numbers and findings from this quantitative piece of work.

A further amendment was submitted to extend the participant recruitment to cover those who were within secure accommodation for any reason, not just through the criminal justice system. This extension was supported by the Research Advisory Group and was due to the following:

- Initial interviews with young people who had experienced prison and secure care found that they felt the experiences were similar regardless of the reason for being within either setting
- Discussions with the project's care-experienced Consultants who again felt the environments were similar regardless of the reason someone was within secure care

As the CSAS case file analysis was carried out before obtaining the extension to include those in secure care for any reason and not simply through criminal justice sanctions, the findings from this strand of the research focus on those with siblings in prison only.

The research questions to be answered are therefore:

1. What are the levels of sibling imprisonment for care-experienced children and young people?
  - a. What data are held on CSAS in respect of sibling imprisonment for this group of children?
2. Are care-experienced children and young people supported to maintain relationships with siblings who are in a prison or secure accommodation?
  - a. What does this relationship look like if they are able to maintain it?
  - b. Who provides the support to allow them to maintain these relationships?
  - c. Has the fact their sibling is in prison or secure care changed their relationship?
3. What are the barriers and facilitators for care-experienced children and young people maintaining relationships with siblings who are in a prison or secure accommodation?

## 2.1 CSAS Case File Analysis

### 2.1.1 Research sample

All cases of children who were aged 15 or 16, who were subject to a Compulsory Supervision Order (CSO) and who had a Children's Hearing between 1st October and 31st December 2021 were included in the research sample. From these 265 records, 200 were randomly selected to form the final research sample. Where children within the initial larger sample were identified as siblings, only one of these children was included in the final sample of 200 cases.

## 2.1.2 Research variables

The research variables covered three areas:

1. Demographic information on the Index Child and their CSO at the time of the Index Hearing
2. Sibling data
  - a. the number of siblings
  - b. demographic information for the siblings
  - c. whether any sibling is or has been in prison
3. Imprisoned Sibling data
  - a. demographic data
  - b. details of the imprisonment
  - c. details of where this data is recorded
  - d. details of any contact conditions between the Index Child and the imprisoned sibling

Siblings of the Index Children were identified, and demographic data collected, from four sources:

- Connections to the Index Child on CSAS
- Connections to the Index Child's parents or parents' cohabitees on CSAS
- External reports held on CSAS (from 2017 to 2020 as SCRA's case management system was updated in 2020 and reports were migrated for the previous three years only)
- Referrals held on CSAS (all referrals received in relation to the child)

The external reports are produced by a range of agencies in relation to investigations following a referral or the holding of Hearings, including social work, education, health, residential units and safeguarders<sup>11</sup>. The external reports were held in the CSAS record of the Index Child, or where the identified imprisoned sibling had children themselves from reports held on CSAS for these children, where available.

Where imprisoned siblings were identified, all CSOs and Records of Proceedings for Hearings for the Index Child were used to collect the further data required for this variable. Where the imprisoned sibling had their own children with records on CSAS, the reports held here were also read to gather information on the details of their imprisonment.

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11. A Safeguarder within the Children's Hearings System is a person who is appointed to make sure that a child or young person's interests are looked after. They can be appointed where people at a Hearing have very different views to each other or where Panel Members feel they need more information to enable them to make a decision. Safeguarders will speak to everyone involved, especially the child or young person, and can write reports for, as well as attend, Children's Hearings.

## 2.2 Families Outside Database Analysis

Families Outside is a national organisation working on behalf of families affected by imprisonment. They support and engage with families affected by imprisonment in a variety of ways including through individual support of family members through Regional Family Support Coordinators (RFSC), group work and peer support sessions, and through their Support and Information Service helpline. Their database holds support notes which are taken from these different strands of work. All entries within the Families Outside database between 1st April 2021 and 31st March 2022 formed the basis of the research sample. A member of staff examined 1000 of these cases, prioritising the more in-depth support from the RFSCs and group work. The final sample comprised of 100 group work cases, 375 RFSC cases and 525 helpline cases.

The criteria for selection to be included within this report was as follows:

- any case in which a child or young person (up to age 18) had a brother or sister in prison. The child or young person may or may not be the main client.

AND

- the child or young person was in care: this means any child not living with a parent or under a care order.

Two cases were identified which fit the criteria, and anonymised case studies were created from these.

## 2.3 Interviews

### 2.3.1 Children and Young People

Recruitment of children and young people as participants in this research was incredibly difficult. Similar to work with families affected by imprisonment more generally, reaching out and being able to speak to these groups is challenging (see Long et al., 2019). To give an idea of the work and difficulties encountered, and perhaps highlighting the hidden nature of this population, almost 90 different organisations/individuals were contacted throughout the recruitment phase of the research. This included the Scottish Prison Service, prison visitor centres, secure accommodation providers, residential care providers, local authorities, Social Work Scotland, third sector organisations who support children and families generally, as well as those specifically working in the field of care or criminal justice and further and higher education establishments (see Appendix 2 for full details). Presentations were given to a number of groups including the Association for Fostering, Kinship and Adoption Scotland (AFKAS), kinship and secure care forums, the National Leadership Network and Stand Up For Siblings network. Information was included in newsletters from AFKAS, the Children and Young People's Centre for Justice (CYCJ), CELCIS, Scottish Throughcare and Aftercare Forum (Staf) and Who Cares? Scotland.



A recruitment call also went out on social media, originally in July, October and November 2022 and then again in March and April 2023 including a video created by the care-experienced Consultants employed on the project. This recruitment process was extremely lengthy and took place over a period of around ten months from July 2022 to April 2023.

A total of 17 children and young people were identified who met the criteria to participate in the research. Of these, five did not want to take part. Therefore, semi-structured interviews were carried out with 12 children and young people who were either care-experienced and whose brother or sister had been, or was currently, in prison or secure accommodation, or who had been in prison or secure accommodation themselves and had care-experienced siblings. This included interviews with:

- 6 young people in prison with care-experienced siblings
- 2 children and young people whose sibling was, or had previously been, in prison
- 6 children and young people with experience of being within secure accommodation with care-experienced siblings
- 2 children and young people whose sibling was, or had previously been, in secure accommodation<sup>12</sup>.

The details of these 12 participants are outlined in Table 2 below:

**Table 2: Details of children and young people participating in interviews**

Name <sup>13</sup>	Age	Gender	Experience (e.g. in prison/secure, with sibling in prison/secure)	No. of Siblings	No. of Care-experienced Siblings <sup>14</sup>
Joseph	21	Male	In prison and secure	4	2
Ross	19	Male	In prison	10	4
Sykes	20	Male	In prison	6	5
Andrew	21	Male	In prison	6	3
Rob	21	Male	In prison and secure	6	1
Ethan	20	Male	In prison and secure	7	5

12. Some children and young people had either been within prison and secure accommodation themselves or had siblings who had been within both locations, so these numbers do not add up to the total number of participants.

13. All participants have been given, or chose their own, pseudonym to use within the research.

14. Based on knowledge and recollections of the young people.

Interviews with these children and young people were carried out between November 2022 and March 2023.

The interviews explored:

- The history of their sibling relationships and the specific relationship with their imprisoned/securely accommodated sibling
- Their experience of the separation – the context, how they have maintained the relationship (if this was the case), who supported this, any barriers they encountered, their experience of this generally. If they were unable to maintain the relationship – what prevented this, how this felt and what they wanted to happen in the future in terms of the relationship
- Their thoughts on how we could improve these experiences

All participants were interviewed in person, except one who was interviewed by telephone with their Social Worker present with them during the call to offer support. The participants currently within prison were interviewed within a space in the education department of the prison, with the interviews organised by the youth work organisation based within the prison. Two of the participants with experience of secure accommodation were interviewed within this location, though they were not currently under secure conditions. The participants who were residing in the community were interviewed in a room within a Scottish Children's Reporter Administration building. The place of the interview was chosen by these participants themselves. All the interviews were digitally recorded and transcribed verbatim by an external transcriber. Transcripts were then checked by the researcher.

## **2.3.2 Social Workers and Children's Reporters**

### **Social Workers**

Four Social Workers were interviewed, from three different local authority areas. They spoke about their experiences of working with six cases where care-experienced children and young people had a sibling in prison. In one of these cases, the sibling had also been in secure, and for another, a child with a sibling in prison was in secure himself.

Social Workers were recruited through contacts within individual local authorities who sent an email which included the researcher's contact details, to relevant staff. Interested staff then contacted the researcher and were provided with further details, including the Participant Information Sheet and Consent Form. All Social Workers who took part were required to have dealt with a case where either they had worked with a child who was in prison or secure care and had care-experienced siblings, or had worked with a child who was care-experienced and whose sibling had been in prison or secure care. Interviews took place over Microsoft Teams between February and March 2023, though participants spoke both of current (for three of the Social Workers) and previous (for two of the Social Workers) cases. One of these previous cases was around five years before the interview took place.

The interviews ranged in length from 35 to 50 minutes, with an average length of 40 minutes. As with the interviews with the children and young people, all were digitally recorded and transcribed verbatim by an external transcriber before being checked by the researcher.

Interviews with the Social Workers explored:

- Their experience of working on cases where care-experienced children and young people have had siblings within prison or secure care
- Their experiences preparing reports for and being in a Children's Hearing for these children/young people
- Their experiences of facilitating contact between care-experienced children and young people and their siblings who are in prison or secure care
- Any changes they have observed following the publication of The Promise and introduction of sibling legislation in 2021

### Children's Reporters

Five Children's Reporters from three different locality areas were interviewed. All the Children's Reporters who took part were required to have experience of working on a case where they had either participated in a Hearing where the child was care-experienced and had a sibling who had been in prison or secure care, or where the Hearing was for a child who was within secure care and had care-experienced siblings. The five Reporters had worked on 3 different cases: two cases where a sibling of the child involved in the Hearing had been in prison, and one where the child involved in the Hearing had been within secure care and had care-experienced siblings. Interviews took place over Teams in March 2023, and the examples they spoke of had all occurred within the previous year.

There was one single interview and two joint interviews. They ranged in length from 30 minutes to an hour, with an average length of 40 minutes. Two of the interviews were digitally recorded and transcribed verbatim by an external transcriber with transcripts then checked by the researcher. Contemporaneous notes were taken by the researcher during and directly following the interview which was not audio recorded.

Interviews with Reporters explored:

- Their experience of working on cases where care-experienced children and young people have had siblings within prison or secure care
- Their experiences of preparing for and being in a Children's Hearing for these children/young people
- The information received for these Children's Hearings in respect of any siblings within prison or secure care
- Any changes they have observed following the publication of The Promise and introduction of sibling legislation in 2021

### 2.3.3 Analysis

All the interview transcripts, the notes taken within the interview which was not audio recorded, and the Families Outside case studies, were analysed using thematic framework analysis (Spencer et al., 2003).

## 2.4 Project Officer and Consultants

As part of the funding application for this project, we were required to outline how we would ensure active participation from care-experienced children and young people in the design and delivery of the proposal. Participation is also something which is important to both organisations involved in this project. The research team within SCRA frequently engages with Our Hearings, Our Voice (OHOV) (a Hearings-experienced Board of children and young people) during the planning and execution of their research work. SCRA also has a Participation Officer who leads on the participation work within the wider organisation. Families Outside has previously had family members of people in prison on their research project advisory boards and has their own participation group, Outside Voices.

Initially we planned to recruit a part-time Project Officer over the duration of the project and to engage with existing groups of children and young people who were either care-experienced, had experienced a family member's imprisonment or had been in prison themselves to act as an Expert Advisory Group. While some groups had been approached prior to the submission of the funding proposal and had indicated their interest, it was ultimately not possible to engage with these groups. Due to delays in employing a Project Officer, this led to an underspend in this area of the budget, and some of this funding was instead used to employ a group of care-experienced Consultants to act as an Expert Advisory Group. The Project Officer (on a 2-day per week contract) and three Consultants began working on the project in December 2022, joined by a further three Consultants in April 2023. The only requirement to apply for the role of Project Officer or to be a Consultant was that the young person was care-experienced, had experience of a family member being in prison or secure care, or had been within prison or secure care themselves.

The role of the Project Officer was flexible and written to ensure that whoever was employed in this position was able to shape the role along with the staff within the partner organisations, depending on their particular skills and interests. Broadly, the intention was to support the work of the Research Officer at SCRA and the External Engagement team within Families Outside. This has included working on participant recruitment materials, supporting staff to create messaging around the project, data analysis and dissemination of the findings from this work.

The Project Officer also formed part of the Expert Advisory Group along with the Consultants. They have provided input into various aspects of the project including the scope of the project, participant recruitment, interview analysis, learning around participation and providing feedback on this report, including the key themes and recommendations.

## 2.5 Ethical considerations

### Ethical Approval

Ethical approval for the study was granted by the following organisations:

- The Scottish Children's Reporter Administration's Research Ethics Committee on:
  - 16th March 2022 for CSAS case file analysis
  - 16th June 2022 for interviews with children and young people
  - 21st October 2022 for interviews with professionals
  - 24th January 2023 in terms of extending recruitment criteria to cover all those within secure care
- The Scottish Prison Service Research Access and Ethics Committee on 28th April 2022
- Local Authority 1<sup>15</sup> on:
  - 5th July 2022 for interviews with children and young people
  - 24th October 2022 for interviews with professionals
  - 31st January 2023 in terms of extending recruitment criteria to cover all those within secure care
- Local Authority 2 on:
  - 21st November 2022 for interviews with children and young people and professionals
  - 19th January 2023 in terms of extending recruitment criteria to cover all those within secure care

### Informed Consent

All participants were provided with copies of a Participant Information Sheet (PIS) and Consent Form. Separate versions of these were created for the children and young people who took part and for the professionals. In terms of the children and young people, these documents were passed to them by someone within the organisation through which they were recruited. This included Social Workers, residential staff, and youth work staff within the prison. Where participants contacted the researcher directly, having seen the advertised project recruitment call, the PIS and Consent Form were sent directly by the research officer to the young person.

All interviewees gave their written informed consent before beginning the interview, and consent was again confirmed with participants at the end of the interview when they knew the information they had provided and were consenting to its use. Given the fact that participants may have been recruited through workers or were based within a prison where power imbalances can be in place, it was emphasised to participants within the PIS, as well as prior to the interview beginning, that their taking part was voluntary and that they could withdraw this consent at any time up to when the draft report was produced.

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15. Local authorities are not named here to ensure anonymity for participants.

### Confidentiality

Unique linkage identifiers for the 200 cases in the sample were created, so the final sample is anonymised. Dates of birth and the child's home address postcode have been collected, the latter potentially to conduct analysis using the Scottish Index of Multiple Deprivation, which requires a postcode.

All the children and young people who were interviewed have been given pseudonyms and were offered the chance to choose their own pseudonyms at the end of their interview. All identifying information from the interviews has been removed from the quotes used within this report.

### Security

SCRA is part of the Scottish Government's IT network which is a secure system. All data collected and analysed were held in a folder to which only the SCRA research team had access, and on encrypted devices. The Research Officer is a PVG Scheme member in respect of regulated work with children and has been trained on Data Protection law.

## **2.6 Limitations of this research**

It proved to be very difficult to recruit children and young people to be interviewed. Our original aim was to recruit between 15 and 30 participants, with 5-10 children and young people from each group (i.e. care-experienced children with a sibling in prison/secure care, care-experienced young people with a sibling in prison/secure care, children and young people in prison/secure care with a care-experienced sibling). However, this was not possible despite contacting a large number of different organisations and using social media. Even when the recruitment criteria were extended to include those within secure care for any reason rather than simply through criminal justice routes, recruitment was still difficult.

While it is not possible to say with any certainty the reasons for this, these are likely multiple. Issues with capacity within Social Work teams and third sector organisations may have played a part. There is a large reliance by researchers on gatekeepers to support participation in projects such as this, and where resources are stretched or limited, it is not always possible for staff to provide this support.

The fact that there is often silo working between the care and criminal justice systems may have meant that where organisations knew of a child or young person's care-experience, they were not aware of sibling imprisonment, and vice versa. They may also have been aware of someone being or having been in prison but not of their siblings, never mind whether they were care-experienced. Where there are multiple potentially stigmatising identities for participants, e.g. care experience and familial imprisonment, this can increase the "hidden" nature of these populations.

While the information within the interviews is in-depth, the small number of interviews means that these children and young people's experiences will not be representative of all who experience this situation. It is an exploratory piece

of research and provides early work and understanding around issues which have not previously been explored, while also highlighting areas further work is needed. It should be noted that we were unable to interview any children and young people who were in foster or kinship care while a sibling was in prison or secure care and so cannot speak to the specifics that may come from this. The sample of children and young people is also dominated by experiences where siblings had been separated prior to one entering prison or secure care. The information within this report therefore does not fully reflect the experiences of those who may have had a more consistent relationship with their siblings prior to a period of imprisonment or within secure care.

As one of the young people interviewed, David, pointed out the location at the time of someone's interview will have an impact on the narrative that comes from that:



*Just the only difference is with me obviously I'm in semi-secure so now I've got that relationship back but obviously I've still been through the same stuff as secure, so it's the exact same, obviously as if you ask somebody in there. However, you might get different responses, obviously everybody will have different responses, but when I say that I mean because they've still not spoke to, where I'm kind of more happy and settled because I've spoken to, where beforehand maybe if you'd spoken to us before I'd spoken to them then it would have been different, I don't know. So you might, yeah there could be better responses in secure as well do you know what I mean, you might get a few more ongoing kind of worries or whatever about it."*

Therefore, the fact that none of the young people speaking about their experiences of secure care were currently in secure care is also a limitation, preventing a full picture of these experiences being ascertained from the data contained within the interviews.

In terms of recruiting professionals, it is likely that Social Workers who came forward to be interviewed will have worked with children where there has been a relationship with their siblings. It is less likely that a worker who did not support the maintenance of a relationship while someone was in prison or secure care would volunteer to participate, especially given the very small numbers of children and young people within this population and the current pressures on the workforce. This will be reflected in the themes that come from this data and are within this report.

While a wide definition of siblings has been taken within this research project, how and what data are collected and stored within the CSAS case management system means there are limitations on what is able to be reported on here. While "sibling like" relationships have been included within the interviews, it was not possible to collect data on these relationships within the CSAS case file analysis due to current reporting standards. The social work reports provided to Children's Hearings do not allow us to assess this with any consistency.

Where step-siblings are recorded within the CSAS case file analysis, these data were taken from cohabitants identified on CSAS or from partners mentioned in reports or referrals (where there was sufficient information to identify them, e.g. full name and date of birth). The available data do not always allow an assessment of the length of relationship between the child's parent and their step-parent and therefore may have occurred for differing periods of time, being more long or short-term in the child's life.

These limitations should be borne in mind when reading the research findings.



# 3. Data Analysis

This section will cover the findings from the analysis of both the quantitative and qualitative data collected as part of this research project. Initially it will look at the findings from the CSAS case file analysis, outlining the demographics of the research sample before moving on to an analysis of the sibling data, including that which covers the imprisoned siblings in particular. It will then go on to explore the findings from the interview data and the case studies from Families Outside, which are analysed together and then grouped thematically into sections.

## 3.1 CSAS Case File Analysis

### 3.1.1 Demographics of the research sample

#### Sex and age profile

In total, the cases of 200 children aged 15 and 16 years old were included in this study – their sex was taken as recorded on CSAS with 91 girls (45.5%) and 109 boys (54.5%).

The age and sex split is shown in Table 3 below:

**Table 3: Age and Sex split of sample**

Age	Sex	Number	Percentage
15	Female	58	29%
	Male	68	34%
		<b>126</b>	<b>63%</b>
16	Female	33	17%
	Male	41	21%
		<b>74</b>	<b>37%</b>
<b>Grand Total</b>		<b>200</b>	<b>100%</b>

#### Ethnicity

Ethnicity was taken from CSAS where available and from social work reports or referrals where it was recorded as Not Known or simply not recorded on CSAS. This has meant that recording does not use one single consistent category (for example, some Social Work reports only record the ethnicity as "White" with no further clarifying detail).

The majority of the children were of White: Scottish, British, Other White British ethnicity accounting for 72% (n=143) of the sample. White or Other White accounted for 12% (n=23) of the sample (some of those recorded as "White" may fall into the previous category but it is not possible to assess this from the information that is available). Ethnicity was not known or not recorded for 15% (n=30).

Around 9% of children in Scotland are now identified with ethnicities other than 'White Scottish' or 'White Other British' (Henderson, Woods and Kurlus, 2017).

## Deprivation

Of the 200 case files, 5 had no postcode data for the Index Child's home address, with a further 8 having postcodes which were not valid within the SIMD look-up table. This left 187 children whose home address postcode location could be used to identify their SIMD area.

Almost half of the 200 children (44%, n=87) had a home address within SIMD quintile one, which represents the 20% most deprived areas in Scotland. 68% of the children lived in the 40% most deprived areas in Scotland as per the SIMD.

## Local authority

Twenty-seven local authority areas were represented within the data, with five local authorities accounting for nearly half of the children (48%): City of Glasgow, 17% (n=33); City of Edinburgh, 9% (n=17); South Lanarkshire, 9% (n=17); North Lanarkshire, 7% (n=13) and Renfrewshire, 6% (n=12).

## Compulsory Supervision Orders

All the index children were on a Compulsory Supervision Order (CSO), with 80% (n=159) of these having a residence condition attached: 26% (n=51) in a residential unit or school, 22% (n=43) in kinship care, 16% (n=32) in foster care, 9% (n=18) with a residence condition of the child's home, 4% (n=7) in secure accommodation and 4% (n=8) in a supported living placement.

Of the 200 children in the sample, 6% (n=12) had a contact condition on their CSO at the Index Hearing<sup>16</sup> date that related to a sibling. These conditions related to both stipulations around contact taking place as well as that the child was to have no contact with a sibling.

Some contact conditions were specific to named siblings, while others simply stated "siblings" or "brothers and sisters" more generally.

In relation to the Index Hearings, there were examples of contact conditions relating to siblings who were or had been imprisoned. These were in terms of contact being prohibited as well as contact conditions being removed due to the child being over the age of 16 and deemed able to make their own choices around contact with their sibling.

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<sup>16</sup> The Index Hearing is the Hearing which took place during the period October to December 2021. The taking place of a Hearing during this period was one of the requirements of a child being included within the research sample.

### 3.1.2 Analysis of sibling data

#### Numbers of Siblings

For the 200 children in the research sample, 286 siblings were identified as being recorded as connections on CSAS (an average of 1.4 per child). Significantly more, 759, were identified from CSAS, external reports and referrals (an average of 3.8 per child). This compares to figures of there being an average of 1.7 children in a family in the UK (On Average, no date) or an average household size of 2.13 in Scotland (Scottish Government, 2021a).

The number of children in the sample who had no siblings or who had siblings who were deceased are below five so are not able to be reported on here. Siblings who were deceased are not counted in the number of siblings figures above, nor the following data analysis.

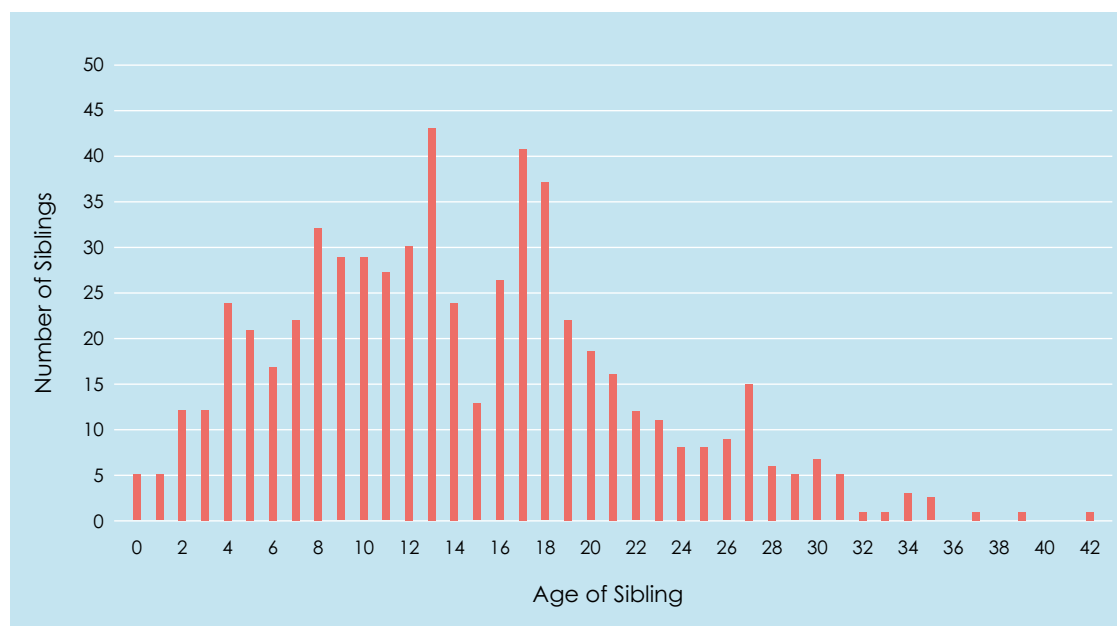
#### Sibling demographics

Of the 759 identified siblings, 46% (n=349) were female, 41% (n=313) were male, and for 13% (n=96) the information was not known or not recorded.

Information on the ages of 602 identified siblings was available. This was the age of the sibling at the date of the Index Hearing and was either calculated using the date of birth if available, or from the numerical age provided within an external report (usually from Social Work).

The average age of these siblings is 14 years old, and the range of ages of siblings is shown in Figure 1 below. A similar mean and spread of siblings across the age range is reflected where only siblings the index child has lived with are considered.

**Figure 1: Age of Index Child's Siblings (All)**



## Sibling Relationships

The 759 siblings identified for the children in the sample included a range of relationships – from adopted families, full, half and step-siblings. This is shown in Table 4 below.

**Table 4: Sibling Type Relationships**

Sibling Type	Number	Percentage
Adopted <sup>17</sup>	<5 <sup>18</sup>	—
Full	292	38%
Half (maternal)	244	32%
Half <sup>19</sup>	7	1%
Half (paternal)	115	15%
Step <sup>20</sup>	39	10%
Unknown <sup>21</sup>	18	2%
<b>Grand Total</b>	<b>759</b>	

The larger numbers of half-maternal compared to half-paternal siblings identified in this sample has been reflected in other work looking at the data held on sibling relationships within social work files (Mannion, 2021). This suggests there may be a lack of information on the men in children's lives within these datasets and reflects a focus on children's mothers and maternal connections.

### Recommendation 1

**Ensure both maternal and paternal sides of families are represented in data recording processes to get a full picture of a sibling group and relationships.**

While it has not been possible to consistently collect data on "sibling-like" relationships, where these relationships were mentioned they included other children within foster placements, either other foster children or birth children of foster parents, within residential settings and in kinship care placements where children lived, for example, with cousins.

17. This includes other children who had been adopted within the family as well as the birth children of the adoptee parents.

18. SCRA's online statistical dashboard indicates numbers under 5 are omitted from the graphs and indicated in tables as <5. This is to ensure the anonymity of the data.

19. Relationship has been categorised as "Half" where further details have not been available to specify whether this is on the child's maternal or paternal side.

20. Step-sibling relationships may be from long or short-term relationships. The reports available do not always allow this distinction to be made, so all siblings of partners have been recorded where possible to do so.

21. "Unknown" has been used to categorise relationships where no further details have been recorded within the files other than "sibling".

Some comments made within these reports suggest this is an area which may need to be considered further and include:



*Child has formed a close relationship to the other child in his placement who he refers to as his sister."*

*Child is currently within a residential placement and stated that he would like to have contact with a previous respite carer. This carer also has another young person with her on a permanent placement and the Child "stated that he wishes to spend time" with this child. They "have grown up together as friends".*

*In a report provided to the Hearing, it is noted that the Child had consented to their views being shared for the purposes of the panel and were written in her own words including:*

*"I would like to be able to see my cousin [ ] who is like a brother to me."*

*Since moving into the care of their foster family, it is noted that "the children have formed good relationships with [foster carer's] adult children and all of their grandchildren."*

*The Child's maternal aunt stayed in her kinship placement for the large majority of her childhood. The Child "describes how she could confide in [aunt] and describes [aunt] to have been a special person in her life, like a big sister."*

## Recommendation 2

**Ensure that sibling-like relationships for children and young people are discussed and recorded to meet the requirements of the sibling legislation.**

Of the 759 identified siblings, 63% (n=479) of them were recorded as having lived with the child at some point (95% of full, 48% of half and 27% of step-siblings), with 17% (n=130) currently living with the child (29% of full, 11% of half and 6% of step-siblings). The numbers for adopted siblings have not been reported due to being fewer than five. There were eighteen siblings where the relationship type was unknown, where all had been reported as living with the child at some point, but none were currently living with the child.

From the data available, it is not possible to ascertain whether the children had relationships with their siblings where they had not lived with them, nor to report consistently on whether they continued to have relationships with siblings, whether they had previously lived with them or not.

## Participation Individuals

Of the 286 siblings recorded as connections on CSAS, thirteen were designated Participation Individuals<sup>22</sup> (PI) (4.5%) at the point the data were extracted. Less than five were designated as a Relevant Person<sup>23</sup>, therefore this cannot be reported on here.

None of the siblings who had experienced imprisonment were designated as Participation Individuals or Relevant Persons.

When arranging a Children's Hearing for a child, Children's Reporters must assess whether siblings meet the following criteria to be designated as a PI:

- the sibling is living with, or has lived with the child;
- the sibling has an ongoing relationship with the child;
- the Children's Hearing is likely to make a decision which would significantly affect when or how the siblings sees or has contact with the child, or the possibility of them having contact; and
- the sibling is able to give their views.

To enable them to do this they use information provided by social workers. To standardise the way in which information was provided, SCRA created a 'Sibling Contact Form', although not all local authorities use these.

Where we look at the Index Children rather than the siblings, 13% (n=26) of the children had Sibling Contact Forms on their CSAS record in relation to either some or all of their siblings, with 23% (n=46) having PI assessments recorded on CSAS for some or all of their siblings.

### Recommendation 3

**Further work is needed to monitor the use of Sibling Contact Forms and Participation Individual assessments by local authorities and SCRA to monitor the implementation of the sibling legislation.**

### Recommendation 4

**A standardised form should be used across all local authorities to ensure a consistency of information which is submitted to SCRA in relation to siblings.**

Of the 286 siblings recorded as connections to the Index Children on CSAS, 173 had lived with the Index Child and were not currently living with the Index Child, therefore may have required an assessment on their participation status. Just over a third (n=62) of these had an assessment of their PI status recorded on CSAS, and almost a fifth (n=34) of these had a completed Sibling Contact Form in relation to

22. A Participation Individual (PI) is a sibling of the child who is the subject of the Children's Hearing. They are allowed to attend their brother or sister's Hearing where the Hearing may make a decision which would affect contact between them. These participation rights are outlined in the Children (Scotland) Act 2020 and the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021. The Children's Reporter will decide who meets the PI criteria, taking account of information from the child's social worker or from any other source.

23. A Relevant Person is any parent or any other person who has parental rights and responsibilities, or anyone who has been deemed a Relevant Person by a Children's Hearing. Being a Relevant Person means they have the right to attend and to receive papers for a Children's Hearing.

them. 14% (n=25) of these siblings had both a PI assessment and a Sibling Contact Form relating to them on CSAS.

In total, 33% (n=95) of the 286 siblings recorded as connections to the Index Children on CSAS had a PI assessment recorded on CSAS. This related to 86 siblings who had ever lived with the child at some point, with 24 of this number (28%) still living with the child at the point of the Index Hearing.

Of the 286 siblings recorded as connections to the Index Child on CSAS, 16% (n=46) had a Sibling Contact Form submitted by a Social Worker in relation to them. A further 17 siblings also had Sibling Contact Forms but were not listed as connections to their siblings on CSAS. Eleven of these 17 siblings were adults.

### Imprisoned Siblings

Of the 200 children within the sample, 9 children had 13 siblings where it had been recorded that they had been in custody at some point. Therefore, 4.5% of the sample had at least one sibling who was/had been in prison. From the information recorded in the available reports, some of the imprisoned siblings had served multiple periods of remand and/or prison sentences, though it is not possible to give more detail given the information that is provided within the reports and the small numbers involved. It does, however, suggest that some of the children within the sample would have experienced a sibling's imprisonment on multiple occasions.

Across the 9 families where siblings had experienced imprisonment, there were a total of 65 individuals identified within these sibling groups (the nine families had between four and eleven siblings in each sibling group). Therefore, while only 13 siblings from this sample may have been in prison, this may have impacted on a total of up to 59 of their siblings across their sibling groups – this includes 24 children (under the age of 18 at the date of the Index Hearing). Table 5 below shows this information in tabular form.

**Table 5: Impact of sibling imprisonment**

Index Child	No. in Sibling Group	No. of Siblings who were/had been imprisoned	No. of people potentially* affected by sibling imprisonment
1	9	1	8
2	5	1	4
3	7	2	7
4	11	2	8
5	6	1	10
6	6	1	5
7	6	1	5
8	8	3	8
9	5	1	4
<b>TOTAL</b>	<b>65</b>	<b>13</b>	<b>59*</b>

\* This number includes 24 children (under the age of 18 at the time of data collection).

Where dates are provided for the periods spent in prison, this allows us to calculate how many within these sibling groups would have been children at this time, which gives a figure of 31 (this data is not consistent and so may not provide a fully representative picture of how many children may have been affected by these periods of imprisonment).

It should also be noted that the impact of sibling imprisonment is obviously dependent on the relationships within these sibling groups. This cannot be ascertained from the data available. Though the Index Child was recorded as having been known to have lived with 37 of the siblings within these groups, comment cannot be made with any consistency on the status of the relationships between imprisoned siblings and others within their sibling groups.

Data on the age of the imprisoned sibling is available for 11 of the 13 identified siblings. The average age of this sibling is 27 years old (this is at the date of the Index Hearing rather than the date they were imprisoned, as the data are not consistent enough to allow this to be calculated).

The majority of the imprisoned siblings were male (an exact breakdown cannot be provided due to the small numbers).

The imprisoned siblings were all either full or half-siblings on the maternal side of the family (a breakdown cannot be provided due to the small numbers).

Of the 13 siblings identified as being or having been in prison, eight were recorded as having lived with the Index Child. None of the children were currently living with the sibling, even where they were not currently in prison.

Of the 13 imprisoned siblings identified in the sample, eight were recorded as having been 'looked after'<sup>24</sup> and seven as having been looked after away from the family home – e.g. in kinship, foster, residential or secure care, though none along with the Index Child. It should be noted that this information was not systematically recorded within the external reports and is likely not to be an accurate reflection of the history of these individuals' care arrangements.

It is not possible to report on whether the imprisoned siblings were currently or had only previously been imprisoned, due to the low numbers in this sub-sample.

The information in relation to siblings who were or had been in prison was contained across a number of different sources including safeguarder, social work and health reports, on referrals, statements of grounds, CSOs, Records of Proceedings or Sibling Contact Forms. These were generally in the file for the Index Child but also where reports had been prepared in reference to the imprisoned sibling's own child where applicable. There were varying levels of detail contained within the documents where some had specific dates of imprisonment and release: some simply mentioned their detention and release with no further details, and some simply had addresses noted as Her Majesty's Prison or with a Prisoner Number.

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24. This includes those who have been subject to a Compulsory Supervision Order (CSO) through the Children's Hearings System and are either looked after at home, within kinship or foster care, or within residential or secure accommodation. It also covers those who are in the care of a local authority on a voluntary basis or subject to a Permanence Order made by a court. It will also apply to those within informal kinship care.



## Contact conditions with imprisoned siblings

Information about contact with the imprisoned sibling was obtained from social work reports, CSOs and Records of Proceedings. Given the data that were available on the details of the periods of imprisonment, it was not always possible to tell whether these comments or conditions around contact referred to a period the sibling was actually in prison. Evidence of children requesting contact with their sibling in prison was not common, but specifics cannot be reported on here due to the low numbers within this sub-sample.

There was a contact condition on previous CSOs in relation to five of the imprisoned siblings, though it could not always be ascertained whether these covered periods of imprisonment. As mentioned above, for those CSOs at the Index Hearing, these contact conditions were in terms of contact which was not to take place as well as contact conditions being removed due to the child being over the age of 16 and deemed able to make their own choices around contact with their sibling.

None of the Sibling Contact Forms is in relation to any of the imprisoned siblings, whether currently or previously imprisoned.

Data did not allow an assessment to be made on whether the Index Child was currently having contact with the previously imprisoned siblings. The Index Child was not recorded as having contact with those siblings who were in prison at the time of the Index Hearing.

No Index Children had been recorded as having visited a sibling while in prison, though the data do not allow an analysis of whether this did not happen or instead was just not recorded in the reports held by SCRA.

## Index Children's Hearing (2021)

None of the currently or previously imprisoned siblings were invited to attend the Index Child's Index Hearing. There was little evidence of any imprisoned sibling ever having attended a Hearing for the Index Child. There was also little evidence where information was provided to the Hearing in terms of the Index Child's sibling who was in prison.

## Year Update for Imprisoned Sibling Cases (2022)

The information which was available did not allow a consistent assessment of whether the Index Child's siblings who had previously been in prison were currently within prison at the time of this update. None of the currently or previously imprisoned siblings were invited to attend the Index Child's Hearing which took place the year following the initial data collection period. Where information was provided about these siblings to the Hearing for the Index Child, these were in terms of ensuring the Child did not have contact with this sibling, either through a measure on the CSO or in terms of their attendance at the family home. A PI assessment was carried out in respect of a small number of the thirteen currently or previously imprisoned siblings identified.

## 3.2 Interviews and Case Studies

The following four key themes have arisen from an analysis carried out across the case studies provided by Families Outside and the interviews with the children and young people, Social Workers and Children's Reporters. Firstly, this will cover the aspects relating to data and decision-making, reflecting on any changes in terms of this following the publication of The Promise and the changes in relation to siblings in legislation introduced in 2021. It will then go on to consider the impact and experience of separation by the children and young people, relating not only to where they are separated where one is in prison or secure care but to previous separation through care arrangements, as this provides a relevant context to their subsequent experiences. The report will then outline the barriers and facilitators to maintaining these sibling relationships where one is in prison or secure care and will finally consider the specific experience of simultaneous imprisonment, where the child or young person is within prison or secure care at the same time as a sibling.

While most of the themes relate to the impact of a sibling being within prison or secure care through the lens of their separation, there are other impacts which do not simply come from siblings being separated. Instead, they come from the stigma and judgement related to where they are located, i.e. within a prison or secure care setting. This was spoken about in terms of coming from those working in housing, education, from other children in school and from within the community more widely.



*...she does feel kinda tarred with the same brush and how her family name is causing her issues even in terms of getting rehoused and things like that."*

(Social Worker 1)

*...one of his friends Googled his brother, and all his crimes. He must have found out he was in prison, and [the child] is quoted in the chronology saying he felt very betrayed and very upset at that."*

(Children's Reporter 1)

*And most people go to secure because they've done something absolutely horrifying awful [...] which made a lot of teachers not wanting to teach me, or yeah and also quite thingy to you like. Just you had certain teachers that were just like, giving you the worst grades and things."*

(Summer)

When reading this report, it is also important to note that siblings can play a range of roles in the lives of all children and young people, but particularly those in care. They can provide protection, both practical and emotional care, and their bonds can be just as important as those with parents (de Souza, 2023). The experiences of the children and young people within this piece of research reflect this. Their relationships were not all the same, but their sibling and sibling-like relationships provided elements of a caring or parental role, being their “best friend” or a “pal for life.” For many there was also a level of being “protective”, “be[ing] there for each other” or “support[ing] each other.” Courtney, however, also spoke of the fact she had “never been that close” to her sibling and “it’s always been quite clashed” - a further reminder that all sibling relationships are different and can also change over time.

### **3.2.1 Data and Decision-making**

#### **Data Recording and Data Sharing**

This section will present the findings and recommendations related to issues raised around organisational data recording where a child or young person’s sibling is in prison or secure care, as well as data sharing. This data sharing can be both within and between organisations involved in this group of children and young people’s lives, for example, between different Social Workers or Social Work departments, between organisations within the Children’s Hearings System or between organisations within the care and criminal justice systems such as Social Work and the Scottish Prison Service.

#### **Organisational Data Recording**

During the process of carrying out this research, it became clear that there was a lack of recording within both SCRA’s case management system and Families Outside’s database that allowed cases where care-experienced children and young people had a sibling in prison to be easily identified. Instead, the process involved reading through lengthy reports or database entries to see if the information was stored within these, rather than there being a field where this information could be easily recorded. This was also the case for local authorities. One of the reasons one local authority did not approve the ethics application submitted to them requesting they participate in the project was due to this lack of data recording which meant that identifying these children would be time consuming, and there were limited staff resources to support this.

#### **Recommendation 5**

**Ensure organisations maintain a record of where a child or young person’s sibling is in prison. Ensure full details are held where relevant, e.g. name of prison, to support the maintenance of contact or compliance with the Participation Individual legislation.**

### Data Sharing Between Organisations or Between Families and Organisations

This lack of data recording relates to aspects of data sharing, where a sibling is remanded or sentenced this would not automatically be shared with Social Work by the prison or courts. Children and families may also not always share with Social Workers that a sibling has gone to prison. This may be due to a sense of mistrust between these families and social work given the role they play in their lives, as well as relating to the stigma around a family member's imprisonment, regardless of any aggravating factor of who in particular this is being disclosed to:

“

*So, if I was to ask her anything about it, she probably wouldn't share very much about it, she's quite protective that way. Particularly of that sibling [...] I think that's probably just how she's been raised and how, how the family as a whole cause it's not specific to the brothers [...] So I think it's maybe just a family that are very cautious of what they say and who they say it to. Particularly social work, you know..."*

(Social Worker 1)

One Social Worker spoke about what may help in terms of being aware of this situation and that without this awareness they would be unable to optimally support the child:

“

*I think probably the kind of direct notification. I don't know the best stage for that to happen, whether that's just purely information shared by the person going into custody, you know, who is it that you usually stay with or have contact with on the outside. And then something comes through to a kind of general box I've no idea, to say, you know just flag up does this person have social work input, just to let you know that so and so's now in custody. Because I don't know, I'm not sure we would've known if [child] hadn't told us and it would just have been put down to one of the other many things that were kinda impacting on her at the time, rather than being a kinda direct source for some of her emotions [...] If we've got an awareness of it, we can support with it"*

(Social Worker 4)

One of the young people currently within prison also raised the issue and felt it was important that those working with care-experienced children and young people should know when a brother or sister goes into prison and help them to maintain this relationship:

“

*I would say that if the care, the care workers who have got, obviously the siblings should like, they should know that one of the siblings is in jail and they should help them to keep in contact...”*

(Sykes<sup>25</sup>)

This is likely to be less of an issue where siblings are in secure care given there will be social work involvement in these cases. This does rely, however, on there being an awareness by Social Workers of all the care-experienced siblings these children may have, particularly where they may be adults and/or no longer have social work involvement themselves.

### Recommendation 6

**Support children and young people to feel comfortable to share the fact a sibling is in prison with their Social Worker or other important people in their lives.**

### Recommendation 7

**Build connections between different social work areas (e.g. children and families, justice, prison) to improve knowledge and information sharing around care-experienced children and young people with a sibling in prison.**

### Recommendation 8

**Ensure that prison induction covers prompts about family members and what this can mean for people, including siblings and sibling-like relationships.**

### Recommendation 9

**Ensure that care-experienced status is accurately recorded for those in prison by including a full description of what this can cover for those answering this question.**

25. All participants have been given, or chose their own, pseudonym to use within the research.

## Data Recording and Data Sharing in Children's Hearings

Social Workers and Children's Reporters made it clear that the information within reports submitted for Children's Hearings were based on who was in the life of the child or who was important to the child, rather than a case of recording all the siblings that a child may have.

“

*No, I mean generally if we're doing reports, it's probably more a focus on who is in that child's life, than specifically, so it's more who they identify, who do they reside with, who are they close to, you know...*

(Social Worker 1)

From the data within these reports, however, it is not possible to say whether conversations are taking place to ensure that all siblings and “sibling-like” relationships are being identified for these children. Though the Social Workers and Children's Reporters did note that data were now shared with the Hearing in a different way, including Sibling Contact Forms or in separate documents. They also spoke of there being “a lot more emphasis on it than, you know, there used to be” and that it is “more routinely discussed in Hearings than it was previously [...] the panel on the whole are very good at making a point of having the conversation [...] since the legislation change it's more been at the forefront of the panel's mind”. This was following the conclusions of the Independent Care Review, publication of The Promise and the result of the introduction of the sibling legislation in 2021.

The data recorded by SCRA on Records of Proceedings following Hearings also do not allow an analysis of whether discussions around sibling relationships are taking place within Hearings, as these will only be recorded where they result in a contact measure being put in place.

Where children are taken into secure care through an emergency transfer at a Children's Hearing, this can result in there being no information available on siblings or wishes around contact, due to the timescales involved. These should, however, be available for future Hearings, and the child should still have the opportunity to discuss contact measures with siblings at these Hearings, should this be relevant. It is not possible to say whether this is taking place from the data available here.

### Recommendation 10

**Further work is required to evidence whether conversations are taking place around sibling relationships both prior to and within Children's Hearings. This should take account of all sibling relationships, including “sibling-like”. The results of these conversations should be included within reports for a Children's Hearing in a way that is consistent across all local authorities.**

### Data Sharing within Social Work

A further issue in terms of data sharing that recent changes should be addressing relates to an issue raised by some of the young people where they had different Social Workers to their siblings, and there was not communication between them:



*He was obviously in care as well, but I was in me nan's, parental guardian, but we both had Social Workers. But like they weren't, like they wouldn't like, my Social Worker wouldn't speak to me brother's Social Worker, you know what I mean."*

(Sykes)

*Yeah, I think see if we just had that one person, like if we had one person that was there for both of us. And I think that's a good thing with like all the sibling stuff now is like that's becoming a priority is making sure that like unless it's been asked that they all have the same worker, rather than having a separate one [...] so then we ended up with different ones, they weren't communicating."*

(Summer)

As Summer mentions above, it is now expected that there should be a single Social Worker for all those within a sibling group, where this is practical and appropriate. Given the complexities within families, where there are larger sibling groups and blended families, this is not always possible. With the definition of 'sibling' within the 2021 legislation being far broader than previously, this will also add to these issues. Where there are multiple Social Workers for a sibling group, it is therefore important that communication occurs between the workers, and that there is sufficient data sharing.

### **Recommendation 11**

**Ensure that where appropriate all those within a sibling group have the same Social Worker and, where this is not the case, that there is communication between all Social Workers working with those within a sibling group.**

### Decision-making Processes by Organisations within the Children's Hearings System

For many of the young people participating in this research, their experiences within a Children's Hearing were historic and occurred prior to the publication of The Promise, the introduction of the sibling legislation in 2021 and the work of the Hearing System Working Group culminating in their final report in May 2023. Most had not had positive experiences and did not feel that their voices were heard in these spaces, sometimes more generally but also specifically around their sibling relationships.

“

*I just wondered, were you ever at kind of Hearings, and did panels ever ask about your brother and if you wanted to see him, or were there any sort of discussions round about that? Or did that just, did that not happen? No."*

(Emma)

*With all that sort of stuff, and again it is probably quite a while ago to ask you to remember that, but did, did they ask you about kind of contact with your brothers and sisters? Did you get a chance to share what you wanted? Did anybody listen to you?*

*That was down the bottom of the list, do you know what I mean, that wasn't really a priority with my panels.*

*Right what makes you...*

*Well see because I was that, going to the panels like it wasn't really anything to do with family, like you know what I mean. It was usually like criminal, you know what I mean."*

(Rob)

While Rob's experience may be historic, it does highlight the potential misunderstandings children can have of the process in terms of what the Hearing can deal with in terms of contact with family members, regardless of the reason they have been referred to the Reporter.

The two young people who had recently been in secure care also said they had not had discussions around contact within their Hearings. They did not frame this as a negative, though those conversations should have occurred, and instead they saw the Hearing as being about them, their behaviour and their plans, and that these were the priority.

“

*And at any of those Hearings did they ever ask you about kind of contact with your sister?*

*No. It was mainly focussed on me and what my next plans were."*

(Courtney)

*Yeah, if you were at Hearings, did panel members or Social Workers ever ask you about contact?*

*Not really, not really and I didn't really mention it because I was like, I'm just going to do my time, do you know what I mean, and I'll speak when I'm out, do you know what I mean. So, just did my time really, do you know what I mean, waited and stuff, ae."*

(David)



The Children's Reporters who contrasted Hearings before and after the introduction of the sibling legislation, felt that panel members were now consistently having conversations around sibling contact which had not been happening previously. Social Workers also spoke of how the sibling legislation, The Promise, and the focus on sibling relationships even prior to its publication, had enabled them now to advocate for contact in ways that they may not have been able to do before. This was not always specifically in terms of those with a brother or sister in secure care or prison. One Social Worker also spoke of how there was still not a consistent practice, even within local authorities. There was a recognition that more still needed to be done regarding sibling separation. Again, this was not specifically related to those with siblings who were in prison or secure accommodation but often more generally in terms of placements for children in care.

The need to revisit decision-making is also key. This was highlighted by one of the young people currently within prison around assuming that if contact between siblings was negative once, it will always be negative:

“

*I think, giving them ample chances to have contact will help and to actually find out if contact would be a good thing and no just assume that it wouldnae because I've misbehaved years before, [...] if you just go about it delicately and you say, right aye they've fucked up in the past, but everybody's willing to change, everybody does change, maybe we will give them another chance. If it doesn't work out, then we'll cut the contact for a while and we will re-evaluate it and see how it looks in a couple of months. But they didn't do that back then. It was just no, no contact..."*

(Joseph)

This was also mentioned by Children's Reporters, that where there is a measure of contact on a Compulsory Supervision Order, this may be in place for a year with no mechanism to revisit this except through a request for a review by the child or relevant person. They stated that not all children and relevant people may be aware of this opportunity, particularly where they do not have legal representation. They also noted that, where a child is taken into secure care, this can be at a crisis point in their life. The result of this can be that they do not wish to see siblings, but this should be discussed at future Hearings revisiting the placement in secure care.

## Recommendation 12

**Ensure that children are aware of their rights around sibling relationships and contact within Children's Hearings and are supported to share their views around this in that space.**

## Recommendation 13

**Ensure that decisions around sibling relationships made within the Children's Hearings System are revisited regularly and that children and young people know their rights around being able to request these decisions be revisited.**

### Role of Offending/Imprisonment on Decision-making

While none of the children and young people spoke of the location of their sibling in prison or secure care, or their own location in these environments as having had an impact on decision-making in terms of contact, it was raised as an issue by a young person in terms of the decision-making to separate them from their siblings previously:

“

*We got divided as far away as possible fae each other [...] They didn't really want me to have contact with my, like, brothers. Social work didn't approve of me and my brothers even associating with each other because every time we were together we would maybe stay out, get drunk, maybe end up in a fight, nothing serious but..."*

(Joseph)

The impact of offending or antisocial behaviour on decision-making was also raised by some of the Social Workers. They recognised that this could play a role in decision-making around sibling contact, though all said that this is not something that would play a role in their decision-making, and nor should it. One did acknowledge that contact between siblings, in this case where one was in secure care and one was in prison, was not always positive, but that it was about managing this rather than stopping contact altogether:

“

*Was it always positive? I would say no. It wasn't. [Young person in prison] was having to kind of survive and live a life in a long prison sentence, so his mentality and perspective about things was quite different, and it would often have a really negative impact on [Sibling in secure care] and then his behaviour in secure. Yeah it was, yeah it was probably detrimental in some ways however, it wasn't stopped, it wasn't ever going to be stopped. It was just different behaviours to manage."*

(Social Worker 2)

The impact on decision-making is not only in terms of where someone is currently within prison but can also be relevant where someone is released and they wish to return to the family home. Where parents decide to allow the released sibling to return home, this can have a knock-on impact on decisions made both in terms of contact between a child residing outside of the home and other siblings in the home, or around that child being able to return from their care placement to the family home themselves. This highlights that it is not simply while a sibling is in prison that there is an impact on children and young people but also upon their release.

Where one sibling is involved in offending behaviour, there can be an assumption that younger siblings will be influenced by this. This research, however, has found that the young people within or with experience of prison wished to do all they could to ensure that their siblings did not follow the same path:

“

*I want [Sibling], I just want to tell him man, I just want to put a wise word in his ear you know what I mean, 100% dinnae turn out like me, [Sibling] and [Sibling] you know what I mean. Just do you, make mum proud, you know what I mean. It's up to him now we've all grew up. We've all had our chance and we've all blown it, you know what I mean. His chance now. So, I just want to go and say that to him, innit."*

(Joseph)

*I'm like listen, do as I say not as I fucking do. You know what I mean. I know it is a typical, I know I have done this but, don't do what I did. Aye. Or you end up sitting here."*

(Rob)

*Yes, but do you know this case has certainly shone a light on me that if there are elder siblings who do want to try and I guess get involved in their younger sibling's life and say, don't end up doing what I'm doing. This is something that you don't want to do. This is no life, you know. So yeah, it can be impactful I guess, in a positive way."*

(Children's Reporter 1)

## Recommendation 14

**Further work is required to explore the role that offending or anti-social behaviour may play in decision-making around sibling relationships.**

### 3.2.2 Sibling Separation – within care, secure care and prison

This section considers the experience of sibling separation which occurred for these children and young people throughout their lives. In some cases, this was due to a sibling spending a period of time within prison or secure care, but for some this also occurred prior to these separations and was due to being placed in different care placements, or where one (or more) siblings were removed from the family home while others remained. These experiences of separation are therefore not all directly relevant to answering the question posed for this specific piece of research, which focuses on the separation of siblings through placement within a prison or secure care specifically. They do, however, highlight that these relationships will, in some cases, not simply be required to be maintained but also re-established or rebuilt – a significant finding in itself.

All but one of the children and young people who were interviewed as part of this research had experienced previous separation from siblings due to their care arrangements. Courtney, who had been within secure care, had not experienced this, though she had been separated from her sister when her adoptive parents divorced, and each sibling lived with a separate parent. For the majority of those who had been separated, this was for longer periods and with minimal contact with their brothers and sisters during this time. While Andrew had been separated from his siblings within different foster placements, this was only for a short period of time before they were reunited within a kinship care placement.

Some of the words that were used to describe the impact of their separation from siblings, whether referring to that which took place through care arrangements, or due to being placed in secure accommodation or being within prison included:

“

**Devastating. Breaks you really.”**

**...damaging...”**

**I was broken [...] soul destroying”**

**...being strangers...”**

**...very isolating...”**

**...it felt foreign...”**

**...heart-breaking...”**

“

*But, when they separate families like that is, I don't know how to explain it. I don't know how to explain it man it's like having a heart and then all the wee bits of hearts are your family and then they just, right he's going that way, he's going that way, your heart's just dismantling.”*

(Ethan)

Joseph spoke specifically about being in prison at the same time as one of his brothers, contrasting this with the separation they had experienced while in different care placements:

“

*...see to be honest, being in the jail with your family's probably better than being in care separated from your family. Because you see them like way, way more.”*

These findings echo those from the Independent Care Review. The ongoing work by local authorities and organisations to meet The Promise, as well as the sibling legislation introduced in 2021, should mean that the separation of siblings will not occur to the same extent in the future. However, the national shortage of foster placements along with an increasing demand and greater complexity of needs for children, with residential houses not set up to take large siblings groups, means that this separation is likely to continue in the near future. Therefore, the maintenance of these relationships will continue to be required despite these changes.

While it was noted earlier in this section that not all of these experiences will directly relate to the research questions answered within this report, where they are relevant is that it highlights a key finding of the work, recognising that there is a need for not only maintaining these relationships but in some cases rebuilding them. This will require a different level and a different kind of support. It may also be more difficult to rebuild a relationship where someone is within a secure care or prison environment compared simply to maintaining an existing strong relationship or rebuilding a relationship within the community. The difficulty of rebuilding relationships was acknowledged by Ethan, who wasn't even sure if this would be possible:

“

*...do you think you can [...] build that relationship? [...] When you are back together?*

*I don't think you can because we're all at different ages, now. So, they'll be wanting to go out and make pals, like at the age of 16, 17, now 15, 16, 17 they don't want to spend time with me, you know what I mean. They're wanting to go out and make pals and go and have drinks, a bevvvy or whatever they're doing, smoke their fags or that, you know what I mean.”*

The support needed to rebuild these relationships was highlighted by one of the Children's Reporters who spoke of a case where a child was still subject to a Compulsory Supervision Order (CSO) and whose older sibling had been released from prison and assessed as a Participation Individual. There had previously been a measure of no contact attached to the CSO in terms of this sibling, and their behaviour had contributed to the child being in care, but at this stage the child wished this to be removed and to have the opportunity to rebuild this relationship. The child remained on the CSO, and Social Workers were providing support

around the rebuilding of this sibling relationship. This can be contrasted to some of the young people's experiences of having to rebuild their sibling relationships alone and unsupported. Often this happened as they got older and were able to find their siblings or had the independence to make contact without the need for adult involvement. As one of the Social Workers pointed out, *"I can see that no matter what anyone does or whatever people think, siblings they all come back together in later life [...] these kids will find each other"*. This highlights the need to maintain these relationships where they will come back together at some point, or to provide support to rebuild them rather than leaving children and young people to do this in isolation.

All the findings within this report should therefore be read in the context of the issues not simply being in terms of requiring maintenance of these sibling relationships but in some cases re-establishing or rebuilding them.

These experiences of separation are also mentioned here to acknowledge them. They were incredibly important to the children and young people who discussed them within their interviews. It also serves as a reminder that although we may now be working to reduce sibling separation within care arrangements, there are still children and young people dealing with the consequences of this previous separation and the lasting impact of system involvement remains. It also highlights that this group may have different needs to those who are currently subject to care arrangements which need consideration.

### Recommendation 15

**Recognise that some sibling relationships will need to be rebuilt rather than just maintained. Rebuilding and maintaining relationships are different and may require different support, but the state has a responsibility to understand and support both.**

## 3.2.3 Barriers to Maintaining Sibling Relationships

### 3.2.3.1 Distance

There is currently only one Young Offenders Institution (YOI) in Scotland holding all 16-21 year olds in custody. This is HMP & YOI Polmont, which is for boys, girls and young people. The Children (Care and Justice) (Scotland) Bill, currently going through Parliament, should see the removal of all children from this environment and instead see them serving any period of remand or custodial sentence within secure accommodation. There is also availability for girls and young women up to the age of 21 to be held in HMP & YOI Grampian and within the newly opened HMP & YOI Stirling, where there is also a Mother and Baby Unit.

In terms of the secure estate within Scotland, as outlined in the Introduction there are five secure care centres. These are often located slightly out of their nearest town or city centre.

The limited number of secure care or prison locations in which children and young people can be held means that the physical distance of family members is an issue for those with siblings in these locations. It may also be relevant where siblings are within the adult prison estate where people are not always held locally.

This distance was raised as a particular issue by half of the young men within the YOI and by almost all the Social Workers. It related to the children and young people's location within both prison and secure care:

“

*I'd say the distance for me yeah. Because I don't have, I don't have visits. So, it is a bit far like.*

(Sykes)

*Just no really bothered with them. With my brothers see 'cause I know they're, like they're in [ ] and that, that also I don't want them fucking also travelling all the way up and all that."*

(Rob)

*They [virtual visits] dae a world of good man, they do. Honestly, they do. If they never had that man it would be shite, 'cause I wouldn't expect folk to come up and see me all the time anyway, you know what I mean."*

(Ethan)

The young people recognised the impact of the distance they were from their family members on being able to maintain contact with them through visits while they were in prison, and that they did not expect them to be making those journeys. Similarly, Social Workers also spoke of the impact of the distance between children in secure care and their family members and the barriers this put in place around their maintaining these relationships:

“

*Oh, I was just going to say it was, again for them he was in [secure unit] so he was in [Location] and they lived in [Town] so it was an enormous journey."*

(Social Worker 2)

*There is opportunity for the family to come to the residential home without the brother and see him there, but again, the residential home is a fair distance from where they lived, would mean multiple buses..."*

(Social Worker 3)

The Social Workers here recognised not only the distance as a factor, but that where this distance had to be covered using public transport, this added another layer of difficulty in making the journey. Where we are thinking about contact with siblings who are children, this journey also has to be made by an adult, usually a parent or carer, along with perhaps multiple children. This adds extra layers of complexity to maintaining these sibling relationships through visits.

## Recommendation 16

**Consider alternative options to the location of secure accommodation places in Scotland and whether there are opportunities for children to be held closer to their homes and families.**

### 3.2.3.2 Financial Cost

Related to the distance of children and young people being held away from their families are the financial costs to visit. This was raised by two of the young people within the YOI and one of the Social Workers:



*There is opportunity for the family to come to the residential home without the [previously imprisoned] brother and see him there, but again, the residential home is a fair distance from where they lived, would mean multiple buses, and probably just something that the family couldn't quite stretch the budget to. At that time there wasn't the bus passes for all the children and things like that."*

(Social Worker 3)

*My ma is staying just outside [Town], like they've got a house in the middle of nowhere, they stay in [Town], like it's an hour and 45 minutes from [Town] to here, and it costs my mum £[ ] in petrol because of the type of motor she's got."*

(Ethan, travel to the YOI)

*I'm trying to think what were the barriers. To be honest, it was financial."*

(Social Worker 2, travel to a prison)

This issue may relate more to those held within a prison, as the local authority can fund travel costs for family members when the child is in secure care. Though this provision does not appear to be consistent across all local authorities.

## Recommendation 17

**Ensure that families are aware of support for travel costs to prison and secure accommodation. Ensure that there is a consistent approach to this across all local authorities.**



## Recommendation 18

Review the eligibility criteria for the support for travel costs to prison and secure accommodation to ensure that children and young people are able to maintain relationships within anyone who is a key person in their life, including siblings.

## Recommendation 19

Explore the extension of the statutory right to support contact with a parent for children in care to be for anyone who is a key person in their life, including siblings.

### 3.2.3.3 Emotional Impact

There are not only practical, physical and financial barriers in place for those with a brother or sister in prison or secure care: there is also an emotional impact which can prevent the maintenance of this relationship, for those within prison or secure care, or their siblings. This was mentioned by four of the young people within the YOI in terms of keeping in contact with family while they had been within the YOI but also when they are previously been in secure care:



*But I think the most difficult part about secure is, aye you get to see your family, but when you're that young and you go into secure you kinda want to leave with your family. You want to go, like know what I mean. It's weird with your ma, your da, your brothers and sister and that, you need to give them a cuddle and watch them leave."*

(Joseph)

*...but I'm one of these people I don't really speak to people, like my ma and that. Because if I hear what they're up to out there, and they're just like oof, having a laugh or having fun and that, I'll go back to my cell like, I'm sitting daein a lifer like I said, you know what I mean. So, I just sit and think about that, what am I missing out on, you know what I mean."*

(Ross)

*...you don't want to see them leave..."*

(Rob)

While the young people were not necessarily only talking about their brothers and sisters here, the same feelings will apply regardless of the family member. As Ross points out, this doesn't only apply to physical visits but also telephone calls, where even hearing about what people are doing in the community can be incredibly difficult, resulting in him choosing to not "really speak to people" to avoid this.

This emotional impact was also mentioned by Rebecca, one of the young people whose sibling was in prison. She spoke of the need to protect and prioritise herself, “we [herself and her sister] don’t want to be near this. It’s like, and when you have mental health issues or anything like that, I just had to prioritise myself”. Due to her sibling’s previous behaviour and the impact of this on her, she had made the decision not to keep in contact and maintain their relationship at that time. This didn’t mean that she didn’t still worry about them however, and it is important to remember that just because a child or young person chooses not to maintain a relationship with a brother or sister who is in prison or secure care does not mean that they are not affected by that relationship, the person’s behaviour or the fact they are within this environment.

### Recommendation 20

**Support should be provided to all children and young people who are separated from siblings who are within prison or secure care, regardless of whether they wish to maintain or rebuild their relationship at that point.**

### Recommendation 21

**Support should be provided to children and young people within secure care and within prison around visits and their experiences of maintaining contact with their family.**

#### 3.2.3.4 Role of Parents/Carers

The role of gatekeepers, or those controlling contact between siblings where one was in prison or secure care can act as a barrier to the maintenance of these relationships. This related particularly to the role of parents in these children and young people’s lives.

Five participants spoke of the role that parents can play in controlling whether siblings are able to have contact with each other. This was both where siblings were in prison and within secure care:



*Aye but I’ve always, like I’m quite close with my brothers and sisters so I’ve always kind of just bit the bullet and like, I started getting on with my mum again just for the sake of getting to see them you know what I mean. But it always breaks down [...] It’s like see if I fall out with her, my full family has to fall out with us. So it’s, you’re on her side or you’re like fucking pushed out the family, you know what I mean.”*

(Rob)



*But realistically, it's not always down to Social Workers or panel members. If two kids, if two siblings want to see each other, but their parents don't want them to, they can't do anything about that. They can't just extract them from their home to bring them here, basically. If you've been told no, it's gonna be a no."*

(Courtney)

As the quotes above show, the reasons parents may have for not supporting the maintenance of these relationships can be multiple. For Hannah, who was in secure care, it could be due to the fact that she felt her mum did not want her to have contact with her sister so conversations about the living conditions for her sister, who was still at home with their mum, could not take place. As Courtney points out, however, whatever the reason, parents have a high degree of control in these relationships.

The decision-making of parents around their own contact, as well as supporting sibling contact while someone is in prison or secure care, may change dependent on the setting and on whether it is someone's first or a repeated entrance into one of these environments. One Social Worker spoke of the child returning to remand in another facility having previously been in secure care, and at that point the family "didn't make a lot of effort. It wasn't a priority anymore."

While carers were not spoken about by the participants within this piece of research, this is likely to be due to the sample, which was a convenience sample and therefore did not contain a range of care placement types. It was raised in terms of where contact may be easier to maintain while siblings were within kinship rather than foster care placements, where the relationships are positive between the kinship carers. It is also a theme within previous research which highlights the opposite, where issues between family members can make the support of family relationships where someone is in prison more difficult, though not specific to sibling relationships (Hairston, 2009). It is therefore highlighted here as it may be relevant where siblings are in prison or secure accommodation, but this will require further focused work to ascertain if and how there is an impact dependent on the type of care placement a child or young person is within.

## Recommendation 22

**Further work is needed to ascertain the specific experiences of children and young people with a sibling in prison or secure care who reside within different types of care placement – e.g. kinship, foster, residential or looked after at home.**

### 3.2.3.5 The prison/secure care environment

There were differing opinions on whether the environment and the experience within prison and secure care was the same or different. One young person in the YOI and two in secure care spoke of the similarities due to their loss of liberty and lack of autonomy:

“

*I wouldnae say it's any different fae this jail. You have lost your liberty. I mean, you don't get out. The only time, if you're on a sentence, it's basically the same as doing a sentence in the jail, except fae there's maybe hings you can dae in secure. So, you've got, like, proper cutlery, a proper gym, a swimming pool, that's about it. That's the only difference between secure and jail. You're still locked in an environment. You don't get to choose when you go eat. You don't get to, you know what I mean, it's still the same."*

(Joseph)

*...it's not like where it's like, oh you're going into like a lovely little residential, you're basically going into like a jail. It's not a jail. It is nicer than jail, but you're basically going into a locked room. Locked rooms. And you can only do some certain things at the one time. You only eat dinner at a certain time, supper at a certain time."*

(Courtney)

*Honestly, from what I know about kinda prison and secure it very much was like a prison."*

(Hannah)

One person within the YOI spoke of the settings being different but then went on to say, "It's a secure unit, it's not like the jail man. You're dubbed up 23 hours a day", suggesting that if this was not the case the two environments would not be so different. When I asked Courtney further about the similarities between prison and secure care, she went on to qualify that, "it doesn't feel like a jail. It feels just like a locked room, but it doesn't feel like a jail". But, again, when you look closer at why she said the two environments are different, it suggests that they are not as dissimilar as she originally felt:

“

*No, it doesn't feel like a jail, it feels just like a locked room, but it doesn't feel like a jail. You've got a window, and a shower and it's painted to a colour. It's painted, like you can have your room painted like blue or pink or green, and you can work up to getting certain things in your room, like I had a TV. Well everybody gets a TV now but I had a TV, an MP3 player, headphones, like colouring books, colouring pens, because you're only allowed so many pens as well."*

This next section looks at the range of ways children and young people keep in touch with siblings who are in prison or secure care. It looks at face-to-face visits, video calls and telephone calls, contrasting the two environments (prison and secure) where appropriate.

### Visits

In terms of visits, the process of entry, as well as the space within both the prison and secure accommodation where visits took place, acted as potential barriers.

The process of entry was noted to be similar due to entering through a metal detector and potentially being searched. Three young people and a Social Worker commented that the process could be intimidating and act as a barrier to siblings going in to visit:

“

*And then we got in, and I remember just feeling like nervous, because as soon as we got in, I seen a big massive metal detector and I was like, and they put like books and toys out, to make you feel like a bit easier in the waiting room but all I could stare at was this metal detector that I was eventually going to walk through.”*

(Summer)

*I go to visit my dad quite frequently and it's horrible. It is really scary. The first time I went up I was 16, on my own [...] it was just, it was completely like intimidating.”*

(Rebecca hadn't visited her brother in prison but spoke about the experience of visiting as a child in terms of visiting her dad)

*I was in [secure unit] yesterday, although that's secure obviously and I was with another Social Worker and that was his first time being in it, and he was sitting next to me in reception saying, this just makes me feel that I've done something wrong...”*

(Social Worker)

The lack of privacy within visits in the prison, where there were always prison staff and other people in prison custody in the visit room with them, and where they were supervised in secure care was a key concern for participants. Thirteen participants mentioned this as an issue in terms of being able to maintain relationships while in that environment:

“

*Nah you, everybody knows your best bonding moments with the family cannae exactly be done when you are sitting in a visiting room with 16 other prisoners, and 5 officers. You cannae really talk about anything. It's not that you cannae, it's just that you don't want to because it doesn't feel private, doesn't feel safe to be honest.”*

(Joseph)

“

*So, if you've got kids, like if it's your own kids you get a bonding visit. I'm not too sure how that works, whether you go into a wee room, but what I do know is like you're kind of just left alone like, you've got your own privacy. Like normal visits man we go to, like if I was going to see my sister it would be just like a big, big room full of maybe ten other prisoners and just loads of visitors. Whereas at the bonding visit it's just by yourself with the visitor. Just, bonding, a bonding visit man, it says in the title, innit.”*

(Ross)

*It's just weird because when you're at your visit you're just constantly getting watched and stuff, you know what I mean.”*

(Andrew)

Where participants contrasted visits in prison with those in secure care, the latter were felt to be far better. They were spoken of as being longer, allowing more visitors and being more laid back with more things to do. There was also the possibility of them being unsupervised for some. While the environment for visits within secure care offers more opportunities to interact, for example being able to listen to music together or to go out where contact was unsupervised and the child had mobility, there were still similarities between the restrictions within these spaces. Children with experience of these spaces as well as a Social Worker and Children's Reporter highlighted that the rooms visits took place in were still felt to be “basic”, “not very comfortable”, that contact there was “not right”, it wasn't a “natural contact setting”, “it's not in our own home” and that “it's not the best”.

In terms of both the prison and secure environment, the young people spoke of the importance of being able to sit and do normal family things like “watching TV”, “hanging out” and “having a laugh”. They also spoke of what the rules meant they weren't able to do, in terms of what would be viewed as “natural” interactions between families more generally, or siblings in particular. This included playing games while in secure care, which Courtney spoke of as not being allowed in case pieces went missing, or bringing in a birthday cake baked at home as Summer had done without it being searched and brought back “in absolute pieces”. As Sykes pointed out, it's not just the big things that are important in terms of these relationships:

“

*Just going out, spending time and going for food, having a laugh, do you know what I mean. It's just the stupid wee stuff it's not even anything big or whatever, like just having a good laugh sitting with them, you know what I mean...”*

(Sykes)

Rob spoke of how “nothing about the jail visits is natural”, particularly highlighting the presence of staff, lack of privacy and that he would be searched following visits:

“

*And then you get took for a strip search at the end of it. I mean how does that supposed to feel like a family visit. See when I go home and talk to my ma I don't get took away for a strip search after it dae I?”*

(Rob)

This links to the idea of “family practices” (Morgan, 1996) which is something that is increasingly being recognised as important when considering familial imprisonment. It links to the idea of what Andrew termed as having “quality time” with family, rather than it simply being about the amount of time you might be able to spend with your siblings which is important. This can mean different things for different people and is something that can be supported through video calls in a way that isn't possible at the moment through face-to-face visits in the prison. This is dealt with in the facilitators section below.

The environment also played a role in the decision-making of those in prison who did not want their siblings to come in to that kind of environment, or see them in that context, with one saying this had been true when he was in secure care as well:

“

*I don't want my wee brother and wee sister coming up to visit so, I don't want them coming in because they've never been inside a prison so...”*

(Andrew)

*I wouldn't want them to come up and visit me [in prison] man. It's no place for, I know they are 16 and that, 15 and that, but it's still not a place for, you know what I mean [...] it's not a place for them to be seeing me you know what I mean, because it's my first time in the jail, you know what I mean.”*

(Ethan)

*I would've went and seen him [her brother in prison] he just didn't like us in there, too young he said.”*

(Emma)

*Aye they come up and seen me [in secure] once or twice, three times man, maybe. And then that was it. I didn't like them coming up to see me [...] It felt uncomfortable them being in that situation, having to come and see me, you know what I mean. Like I should be out there, you know what I mean, spending time with them no sitting in here, you know what I mean.”*

(Ethan)

## Recommendation 23

**Explore the needs of siblings specifically in terms of visits in prison and secure care and ensure there is effective and natural contact for this group of children and young people within these environments.**

Ross also spoke of the fact that it was not necessarily just the environment of the prison itself but the place he was in mentally within that environment. He had been given a life sentence, which meant he felt unable to cope with having his siblings come in to visit him when he first came into prison:

“

*No, well he [his brother] asked about a visit about a year and half ago or something, two year ago, but obviously I wasn't in a good place you know what I mean. I was struggling back then like with drugs and things like that, and just always in the digger. So, I didn't really want to see him like, obviously for him to see me like that you know what I mean [...] it was probably maybe just as I got sentenced. [...] I was just always fighting, rolling about with staff and just fuck this place. You can imagine my head was messed up being sentenced for a murder you know what I mean. So, I just basically said I didn't want him to see me in this state...”*

(Ross)

The siblings outside of the prison or secure accommodation setting can also make decisions and choose not to visit a sibling in prison or secure care. For Rebecca, whose experience was outlined above, this was in terms of protecting herself from the emotional impacts of maintaining a relationship with her sibling. This was something that was also spoken of directly in terms of one of the young people with a sibling who had been in secure care, Summer, as well as two of the young men in the YOI and a Social Worker. This decision-making was for different reasons, highlighting that there is no single experience of this separation.

In terms of the young person whose sibling had been in secure care, they spoke of making this decision when they were asked at a bad time, *“I usually got asked on days I was in a bad mood, if I remember [...] I used to always get asked if like me and mum had had like an argument...”*. This highlights the need to revisit these decisions and perhaps to have these conversations directly with the child rather than only through a parent, given some of the issues outlined above about their role as gatekeepers within these sibling relationships.



## Recommendation 24

**Ensure that conversations with children around their desire to visit a sibling in prison or secure care allow the children to freely express their views and that they are revisited regularly.**

Two young men within the YOI spoke of their experiences of not being visited by siblings as well as one of the Social Workers:

“

*I wouldn't mind, see if they offered, oh I'll come up and see you and that, but like [Sibling] makes up, she's got the maist fucking awful excuses, she makes some amount of excuses honestly. She's like, oh put me on visitors, put me on visitors, oh I've got nae ID. Book a visit, so I booked a visit, oh I've got nae ID."*

(Ethan)

*He went into prison and they were like, right that's it you know, he's done to us now, we're not going to have any contact and despite him wanting it, yeah they just, they never had it."*

(Social Worker 2)

It is obviously not possible to say what the reasons were that these children and young people chose not to visit their sibling in prison. It can be a time of growing independence and other calls on their time. When taken along with the experiences outlined above of the barriers to having “normal” sibling relationships and the distance and therefore time needed to travel for these visits, this could offer some explanation of why children and young people make these decisions. The breakdown of relationships through previous separation may also have an impact on this decision-making by siblings. This can be contrasted with those who are currently in prison, and whose voices are included here speaking about their lack of contact with siblings, where family and other connections can become more important during this period. There is little else to fill their time, and this can mean that relationships, including those with siblings, can become more important to them, while they are more remote to those still living their busy lives outside in the community. In terms of the practical aspects of arranging these visits in secure care or prison, where this was done by a Social Worker, it was noted that this was less of a barrier in terms of where a child was in secure care. However, this should be balanced with the experiences of some children and young people who felt that contact was more restrictive with siblings in secure care in some ways, with Social Workers deciding who was allowed to have calls or visits with the child, which was not the case where the sibling was in prison.

## Recommendation 25

**Ensure the decision-making processes around contact for those within secure care meet the Secure Care Pathway and Standards.**

While the needs of the visitors themselves were not mentioned by a majority of the participants (three), numbers of participants within this research were small, and it did highlight particular cases where those visiting their siblings in prison had mental health or other additional support needs. This could compound the impact of the process of entering a prison or secure accommodation or the environment within a prison visit room for these individuals and is something which should be given special consideration.

## Recommendation 26

**Ensure children and young people with additional support needs are able to access visits in prison and secure care and have their needs accommodated within these environments.**

### Video calls

Barriers to maintaining contact in the context of video calls related primarily to the technology. This was mentioned as a barrier by one of the young men in the YOI in terms of his mum struggling to use the technology, and by a Social Worker in terms of the frustration felt by the child they were working with when the technology failed and the calls with his brother in prison did not happen:



*... he [the child in secure] would also get frustrated because it would be out of his control. So I think there was that as well, you know this is something I am told I am going to get, this is something I've got a right to get, so then when it doesn't happen, I really, he would feel really erm, yeah would feel really distressed by that."*

(Social Worker 2)

### Telephone Calls

Barriers to maintaining contact with siblings through telephone calls were spoken of in terms of access in both environments, though this manifested itself slightly differently within the prison and secure accommodation spaces. In terms of prison, Rob (one of the young men in the YOI) spoke of having difficulties with staff allowing him to access the telephone on the Hall when he had run out of minutes

on his mobile (all prisoners were given 310 free minutes per month which could be used on a restricted use mobile phone during the pandemic and, at the time of this research, this had continued). This may be something which will be addressed by the implementation of in-cell telephony across the prison estate in Scotland.

In terms of secure care, one young person raised this as an issue in terms of having to ask staff to access the phone and the limited time they were able to then use the phone:

“

*“...the phone calls, you only get like really 15 minutes I think or something but I think it's actually, I think it's maybe 5 minutes out the day twice, and then 5, something like that ae, call in or something, you get a call in ae [...] you can speak everyday however it's not, you've not got an unlimited amount of call time, that's the only problem. Most staff will however, if not everybody's asking for a phone call, see if it's pretty chilled out in the unit, nobody's really asking, then you're more likely to get more phone call time. That's because of obviously other people not needing calls, but see when other people need calls, then they kind of give you a time limit.”*

(David)

### Recommendation 27

**Ensure there is adequate access to telephones within prison and secure care to allow relationships to be maintained.**

As with visits, the lack of privacy in terms of calls from a prison which are recorded and those in the secure estate where contact was supervised so were also monitored, was also raised as a barrier to maintaining relationships:

“

*Yeah I remember just not sure what to say because someone was like physically sitting beside me. Like it wasn't as if they were sitting at the opposite end of the room, like they were literally beside me and they were kind of like staring at me as I was talking.”*

(Hannah, in secure care)

*In here [YOI] your phone calls, they're always getting listened to and all this so you cannae really have a decent conversation, you know what I mean. Even though it might not be anything stupid you are talking about but it's just, you know what I mean.”*

(Sykes)

Barriers to maintaining sibling relationships through telephone calls can also come through the decision-making of the siblings outside of the prison. In some cases, such as Rebecca who spoke of choosing not to maintain a relationship with her brother, this can be in relation to having no contact. There were also examples of where siblings chose not to take calls from the person in prison:

“

*She's kidding on she's no got a phone right but I know she's got a phone because no, so she's got a phone but she's took her SIM card out so I cannae phone her (laughs)".*

(Rob)

*...but she's no really kept in contact, like I'll try and phone her and it'll be an excuse, oh my phone has broke and this and that, and then I'll phone my other sister [ ], or I'll phone [ ] and I will phone [ ], oh my phone is broke and this and that, oh I need to get a new phone, and all that. I'm like, my mum's just spent £1300 on a brand new iPhone 13 and your phone is broke. Doubt it. Doubt it, you know what I mean."*

(Ethan)

Similarly, as was outlined in the visits section above, it is not possible to say what the reasons were for these children and young people choosing not to keep in touch with their sibling in prison but highlights that siblings do also have agency in making decisions around the maintenance of their sibling relationships.

### Controlled Contact in Secure Care Environment

The restriction of liberty for a child within secure care results in their contacts being more tightly managed and monitored than would be the case in other settings, even within a prison. Risk assessments must be carried out by social work around each contact. This was felt by the three young people who had been in secure care as exerting a strong level of control over who they were able to have contact with and the process around this:

“

*But should be getting [sibling-like] on my contact list soon. So I just need to remind my Social Worker about that because I think she's forgotten, but other than that yeah, get her on my contact list. So that'll be sorted."*

(David)

Here, David was talking about having his cousin, who he saw as his sibling, added to his contact list now that he was in the closed support unit rather than still being subject to the secure care conditions. While he was in secure care, he spoke of the fact that it was not that Social Workers had not allowed him to have contact with a child with whom he had been in residential, and who he classed as his brother, but that he had not asked for this as he had assumed the answer would be no. This highlights that it is not simply a case of Social Workers making decisions

that would limit the maintenance of some sibling or sibling-like relationships in this setting, but that the lack of understanding by children and assumptions made in terms of this can also in and of itself act as a barrier.

### Recommendation 28

**Ensure that children and young people are aware of their rights around sibling contact while they are within secure care or prison. This should also cover who can be seen as a sibling, e.g. full, half or step-siblings as well as “sibling-like” relationships. They should be informed of what to do when their rights are not being respected.**

### 3.2.4 Barriers are Compounded by Care-experience

Some of the issues and barriers outlined above are common to all families affected by imprisonment. Consequently, all children and young people with a sibling in prison or secure care share similarities as outlined above. These barriers, however, can be compounded when children or young people are care-experienced, or they or their family is involved in the Children's Hearings System. This can be in respect of these families being more likely to reside in areas of deprivation or experience poverty, with over half of children with CSOs having home postcodes within the two most deprived data zones (SCRA, 2022). This means they may already experience financial pressures, and supporting the maintenance of sibling relationships where there is no additional financial support can impact on their ability to do this. These families may also have more complex lives and be dealing with multiple other issues, of which a child or young person having a sibling within prison or secure care is only one. Social Workers spoke of how the “chaos” in a child's life made sitting down and organising contact with someone in prison more difficult, or how the “*complex nature of their relationships*” meant siblings did not visit one of their sibling group who was in prison.

Siblings within these families may also have different connections with each other. This could take the form of them taking on a more parental-type role where the parents have been unable to fulfil this or have passed away. This could relate to the sibling who then entered prison or secure care, or to their brothers and sisters:



*Aye like when they were staying with my mum like it was me and my big sister that was always feeding and cleaning them you know what I mean. Because my mum and dad were out doing what they were doing.*

(Ethan, in prison)

*...but then predominantly I would be coming to the house to like do the washing and ironing, like it wasn't necessarily to see Summer, it was to benefit Summer but, like, it was to make sure there was like food in the fridge.”*

(Summer, sibling with experience of secure care)

“

*...but then predominantly I would be coming to the house to like do the washing and ironing, like it wasn't necessarily to see Summer, it was to benefit Summer but, like, it was to make sure there was like food in the fridge.”*

(Summer, sibling with experience of secure care)

*At one point when I was at university, he [her brother] had been kicked out of his children's unit for various things, just violent behaviour, and the Social Worker had asked me to take him in...”*

(Rebecca, sibling had been in secure care and prison)

While it is not only within families where there is involvement in the Children's Hearing System that this may be true, it may be more likely that parents will play a different role in the lives of care-experienced children and young people. This can mean that where these siblings are separated, the child or young person loses a key caregiver, even though this may not always have been recognised by a formal or legal arrangement.

There can also be high levels of trauma in many care-experienced children and young people's lives (Ford et al., 2007; Chambers et al., 2010; McGarrol et al., 2022). This again may have changed their sibling relationships and the connections they have with their brothers and sisters who have been with them during these experiences and understand them in a way no one else can.

Not all care-experienced children and young people require social work to facilitate contact where one sibling is in prison or secure care. Where they are involved, however, this can add another layer of complexity and additional barriers around contact arrangements. This is particularly true where they may not have experience of this, and they lack knowledge around what can take place and be arranged:

“

*If we've got an awareness of it, we can support with it, and if we know the kinda processes and how that would work and how that's you know, if that's going to be child centred and friendly, and you know we can manage that and we can make the arrangements. If we know about it, we can deal with it, like anything else I suppose. But if we don't know and then we're gonna struggle with it, and we are gonna be caught out as usual.”*

(Social Worker 4)

Social Workers did also play a key role in supporting and facilitating contact, however, which is expanded on in the section below.

### Recommendation 29

**Ensure that support is in place for care-experienced children and young people where their sibling is in prison or secure care which takes account of their specific experiences and context.**

### Recommendation 30

**Raise awareness within the Scottish Prison Service (and contracted establishments) and providers of prison visitor centres of how being care experienced may specifically impact on those with a family member, including a sibling, in prison and how this can be supported.**

### Recommendation 31

**Ensure information is easily available for professionals who may be supporting care-experienced children and young people with a sibling who is in prison.**

### 3.2.5 Facilitators to Maintaining Sibling Relationships

Many of the facilitators to maintaining contact and building relationships spoken about in the interviews were simply the opposite of the barriers outlined above. This included that the location of their sibling was nearby and that parents could drive, so overcoming the compounding barrier of having to use public transport, or that video calls were able to compensate for the issue of distance. Financial support being available from local authorities to support visits to secure accommodation was important, and simply having supportive parents who took children to see their siblings were all facilitating factors.

#### The Need for (Independent) Support

The importance of having support in some form was also seen as helping children and young people to maintain their sibling relationships. This support generally came from Barnardo's youth workers within the YOI, though Physical Training Instructors (PTIs) were also mentioned by one of the young people who said you saw them as "normal people" and not "screws or officers or whatever":

“

*Aye, like I was the one that kinda brought it up man, because I think it may have been [Barnardo's staff] or something who brought it up to me before, talking about [his brother] and that man. I was, listen I wanna see him, you know what I mean like.”*

(Ross)

“

*Since I've been in, youth work have always helped me like, with speaking to my wee sister and my wee, like my family and they keep saying just get them up to see you and they push you forward. They think about all the positive things, you know what I mean.”*

(Andrew)

Within the prison environment, Family Contact Officers (FCO) were mentioned by only one of the young men in the YOI. He had a child himself, so this may have contributed to his knowledge of FCOs and their work within the prison, where there appeared to be a perception that FCOs were for supporting contact between parents and children rather than a source of support for contact with any family member.

For those outside of the prison, the role of Social Workers in providing support was important, as was highlighted at the end of the Barriers section above. They provided both emotional and practical support, depending on the needs of individual siblings within a sibling group, and were able to encourage and support the maintenance of these relationships in a way that may not be available for families without this involvement.

The need for this support was something participants felt was key, with seven (58%) of the children and young people highlighting the importance of having someone to support those on both sides of these sibling relationships. The independence of this person was also of importance, seeing them as separate from any Social Workers who were working with the individuals or families already, and distinct from Prison Officers.

### **Recommendation 32**

**Ensure that there is a knowledge and awareness by those in prison and their families of the full role of the Family Contact Officers, in terms of the relationships that can be supported, including those with siblings.**

### **Recommendation 33**

**Raise awareness with Family Contact Officers of the impact of sibling imprisonment on children and young people.**

### **Prison Visits – Face-to-Face and via Video Calls**

While there were barriers around the use of video calls, in terms of being able to access the technology or this not always working, they also represented a way of addressing some of the barriers around having more “normal” interactions with siblings. Some of the young men within the YOI spoke of being able to watch TV with family members while on a video call, to be present while their family scattered a grandparent’s ashes and to help out with younger siblings’ homework. These all illustrate ways in which the young person was able to be part of their family in ways which were not possible within the visits room at the prison. However, it should also be borne in mind that cost, access to suitable devices and digital literacy can be a barrier to being able to access video calls, and that this



might be a particular issue amongst those within care-experienced communities (Sanders, 2020a; Roesch-Marsh et al., 2021; Jennings and Loucks, 2022).

All of the participants were asked about what they felt might improve these experiences of separation and the ability of siblings to maintain these relationships. Almost all of the young people within the YOI, as well as one of the Social Workers, commented on how some form of bonding visit for siblings, or different activities being available in visits, would help siblings to maintain their relationships in this environment. Currently, children's or bonding visits are generally only available for children who qualify both in terms of their age, i.e. are under age 18, as well as their relationship to the person in prison, i.e. they are visiting a parent, though this is changing in some prisons. One child had applied to attend a children's visit with their sibling, but this was refused. There were issues around Social Workers being able to write a supportive letter due to not knowing the case well enough, and eventually it was not progressed further due to the pandemic stopping all visits to the prison.

### Recommendation 34

**Ensure that children's visits are open to being accessed by all children, not only those visiting a parent in prison.**

One Social Worker also spoke about their experience of mothers who were serving a prison sentence being able to attend for visits with their children outside of the prison in a social work setting. They asked whether this may also be possible for children who were visiting with brothers or sisters who were serving periods of custody.

### Recommendation 35

**Explore opportunities for visits with imprisoned siblings to take place outside of the prison environment.**

### Secure Care

In terms of improvements for those within secure care, one of the young people spoke of there needing to be more leeway from Social Workers around decision-making on who was allowed to be included on approved contact lists within secure accommodation:



*I think the contact list with social work should be slightly maybe more like kind of leeway a bit, like a bit more with the leeway [...] I do think obviously again maybe there should be like if you are speaking to somebody that's*

“

*just going to get you in trouble, then do you know what I mean, yeah they can kind of assess that but, do you know what I mean, I think there should be a bit of a chance first. So maybe even if somebody you don't think's the best for them to be on the contact list could go to supervised to begin with, and maybe after time you could build it up to, do you know what I mean, like on your own and stuff, [...] Yeah that's what I think should maybe start and then see if it's supervised and we're talking about the wrong stuff, then it can be like, they can give you a warning. If you don't follow the warnings then phone call gets ended, social work know about and then it's their decision whether they want to take it off and stuff.”*

(David)

David was incredibly insightful in his interview, and as this quote in particular shows, he understood why some of these decisions were taken and was not saying children should be allowed to have contact with anyone but felt that they should at least be given a chance to maintain some of these relationships.

There was also, however, an example given by a Social Worker of where relationships which may have been deemed to have negative behavioural consequences were still supported:

“

*Was it always positive? I would say no. It wasn't. [Sibling in prison] was having to kind of survive and live a life in a long prison sentence, so his mentality and perspective about things was quite different, and it would often have a really negative impact on [sibling in secure care] and then his behaviour in secure. Yeah it was, yeah it was probably detrimental in some ways however, it wasn't stopped, it wasn't ever going to be stopped, it was just different behaviours to manage.”*

(Social Worker 2)

This shows that there is an understanding of the importance of all sibling relationships, and that the professional decision-making taking account of risk and behaviours does not always result in a cessation of contact. This may not be a consistent approach taken with all, however.

### **Recommendation 36**

**Further raise awareness of issues around sibling separation where one is in prison or secure care and the requirements around meeting the sibling legislation and The Promise consistently for all children.**

### 3.2.6 Simultaneous Imprisonment

Of the six young people who were currently in a YOI at the time of their interview, five had served a prison sentence at the same time as seven of their siblings. One Social Worker also spoke of a case where a child was within secure accommodation at the same time as a sibling was in prison.

This situation, where someone is within custody at the same time as a family member, whether in the same or different prisons, is something which is rarely recognised in research, policy or practice. Instead, family members tend to be viewed as only being outside of the prison rather than viewed as being able to be simultaneously both a “prisoner” and a “family member of a prisoner”.

Three of the young people spoke specifically of the support and care that they provided to their siblings when they were both in prison together:

“

*...we [young person and person they identified as “sibling-like”] always make sure each other is good, like we always make sure we’re doing well, like mentally you know what I mean, always look out for each other. If I need something, maybe like an oil for my vape, he’ll give me it. If he needs it, I’ll give him it. If I’ve run out of sugar gels, he’ll chuck me a sugar gel or food, just whatever, you know what I mean. We’re just there for each other so it’s good, it’s good that way man. Someone to fall back on you know what I mean, like, he can fall back on me, I can fall back on him. The same with my brother when he was here man, like we could always look after each other, you know what I mean.”*

(Ross)

*It’s good when you’ve got brothers that, like see when you’ve got people that are trusted, and they’re on the pass out, as in all day and they’re out the cell all day, if they go up to an officer and they go, can you get my wee brother out so I can get [inaudible], oh no bother son, because he’s on the pass. So, they trust him.”*

(Joseph)

*...and then he ended up getting the jail when I was in, and I had to fucking look after him (laughs) [...] So, obviously because I’d been in for ages, I’d obviously built up a lot of stuff in my gaff so I could fucking take him over stuff and that, help him set it up, get his gaff looking nice and that.”*

(Rob)

Andrew, however, spoke of how these relationships were not always viewed by the prison or staff in terms of being supportive but instead focused on the conflict there can be within these relationships. He also believed that this was specific to the gender of the sibling and that this would not be the case if a sister were in prison at the same time as their sibling:

“

*Because they like to keep brothers and stuff separate because there's been a lot of brothers in who fight with each other you know what I mean [...] Like if you're up here [the education department] and that you'll get to see them and talk to them and stuff but they try and keep you away from each other in the Hall, you know what I mean."*

(Andrew)

This conflict in sibling relationships may be natural, but within the specific environment of a prison it can manifest itself in different ways and be viewed in a specific way by the system and those within it.

While some of the examples above show how sibling relationships were supported by staff in the prison, there were a range of different experiences by the young men of processes around contact with siblings within the same or different prisons.

For those who spoke about being in the same prison, two had visited their sibling when they were being held in different Halls. One had had the opportunity to do this but had chosen not to, as it was during Covid restrictions and they had health concerns for their sibling. Rob specifically mentioned the role of Family Contact Officers in supporting this contact, where they had taken him and his brother to the visit room at a time when visits were not taking place, allowing them to have contact there rather than just on the Hall:

“

*They're actually quite good with that stuff in here, like see if you're in with your brother, I got told if you were in with your brother you weren't allowed in the same Hall as them or all that, or you would be kept separate but no it's not like that at all [...] The Family Contact Officers they would like come to the Hall and they'd grab me, and then they'd take me up to his Hall and they'd grab him and they'd take us up to the visit room and let us have a visit."*

Three of the young people also spoke of the possibility of having joint visits when someone came in to visit them, where they could meet with this person together. One said that this was allowed, but two said that it wouldn't be.

Where the young people were in a different prison from their sibling, two had been allowed to have inter-prison calls with a sibling, with two having video calls. One was not allowed inter-prison calls and believed this was due to "intel"<sup>26</sup>: "So intel usually knock me back because apparently I've got intelligence...". One also chose not to have inter-prison calls because of "intel": "...see if I'm talking to them it would just be intelled and stuff so, and that would fuck me and fuck them...". Only one of the young men spoke about the possibility of inter-prison visits with their sibling, stating that this wouldn't be allowed, as their siblings were "high risk prisoners".

26. "Intel" or "intelligence" within a prison is information which is collected for a variety of purposes. This includes to support offender management, for the prevention and detection of crime, preserving order and discipline in establishments, and the management of risk and prevention of harm.

These examples reflect the levels of inequality and ambiguity around the supporting of the maintenance of sibling relationships for those in prison at the same time as a sibling. They also, however, highlight positive experiences where prison staff have a clear understanding of the importance of maintaining these relationships for those in their care. The mention of “intel” by the young men raises the conflict there can be within the prison environment in terms of maintaining and supporting these relationships and is something which requires to be addressed. The positive aspects of these relationships must also be recognised, including the care that can be provided by siblings who are in prison at the same time, as well as the rights these young people have to maintain family relationships, regardless of the location of their family member.

### **Recommendation 37**

**Ensure there is clarity around what minimum level of contact is allowed between family members, and what form this can take, when in the same or different prisons at the same time. This should not result in a reduction in the level of contact taking place where prison staff are able to use their discretion and instead should be a minimum requirement.**

### **Recommendation 38**

**Ensure that young people in prison know their rights around levels of contact allowed with family members who are also in prison. They should be informed of what to do when their rights are not being respected.**

### **Recommendation 39**

**Ensure that prison staff have an awareness that “family” can also mean people who are in prison themselves, and ensure that this is reflected in prison policy documents and training around familial imprisonment.**

## **3.3 Learning Around Participation**

This section will explore the learning around children and young people’s participation that has come from carrying out this research. It considers the challenges that have been encountered, along with the barriers and facilitators to this participation. It concludes by summarising the lessons learned from this work.

Children and young people’s voices have been included in the work in two ways: firstly, as research participants, and secondly in either the Project Officer or Consultant role. These are detailed separately below.

### 3.3.1 Research Participants

There have been many challenges around recruitment of research participants within this project. Many are reflective of the wider challenges around recruiting children and young people to take part in research where they belong to what can be termed “hidden” or “hard to reach” groups.

One issue, which was raised when I began to speak to young people within the YOI, was an individual level barrier as identified by Ellard-Gray et al (2015), that of “labelling” or how they identified themselves in terms of the research recruitment criteria. One of the young men I spoke with in the YOI said that his siblings were care-experienced but he was not, so could he still take part. He still met the research criteria and was interviewed, but when speaking to him it became clear that he had stayed with family members when he was younger so would also have been care-experienced, but would not have identified himself in this way. Instead, he spoke of care-experience only in terms of those who were in foster or residential care. Where people do not understand the breadth of what is covered by the term “care-experience”, this can result in them not identifying as meeting research criteria such as that used within this project.

#### Recommendation 40

**Raise awareness of the meaning of being “care-experienced” and ensure that children and young people understand whether they meet the criteria to be classed in this way (not simply in terms of research but for other provisions for care-experienced children and young people).**

Two key challenges for participation identified during this project were the time and resources required to carry out recruitment with these “hidden” populations, and the role of gatekeepers. These can be compounded where participants are children, particularly from what could be termed “vulnerable” populations, for example those with social work involvement.

As was outlined in the Methodology section above, significant time and resource was required to recruit the participants who took part in this research, on the part of both the Research Officer and the other gatekeepers involved in the recruitment process (for example, Social Workers and staff within third sector organisations). While there are organisations which can be used to target recruitment towards those with care-experience, for example Who Cares? Scotland or Champions Boards, there are fewer opportunities to target those who have experience of a family member’s imprisonment. While Families Outside is a national organisation working with and for families affected by imprisonment, no participants were able to be recruited through this organisation. Recruiting through organisations such as this can also limit participation to, firstly, those who have an awareness of them, and secondly, those who choose to be involved in or with them. This alone will never reach many in the populations researchers wish to target.

Where there are two potentially stigmatising characteristics of participants, e.g. care-experience and a family member's imprisonment, this means that while you can advertise opportunities to memberships of organisations more widely, there is less possibility of targeted recruitment, as even those working with care-experienced children and young people who are aware of this characteristic may not be aware that they have also had a sibling in prison. This is true of a range of professionals who are working or engaging with these children or young people, for example staff in schools or universities, third sector organisations, or staff in local authorities, such as Social Workers. This personal connection, where workers have this knowledge of someone's individual circumstances and are able to share information about a project in a more personal and targeted way, is likely to result in more engagement than if information is simply sent in an email newsletter or to a wider mailing list.

To try and overcome these recruitment issues, it is necessary to engage with a wide range of people and organisations, as was outlined in the Methodology section above. This impacts on the time and resources needed to do this work and to engage with these multiple organisations, but also the need to submit multiple ethics applications to these organisations to approve the study. While the Research Officer has significant experience of applying for ethical approval for research projects involving children and young people and those who may be termed "vulnerable" within these processes, where the applicant is not used to doing this type of work, the process will be particularly onerous. This can be compounded where multiple ethics applications are required where participants are recruited across a number of local authority areas, residential or secure care settings, or through third sector organisations who have their own ethical processes.

#### **Recommendation 41**

**Consider the streamlining of ethical processes across local authorities and secure care providers.**

With participants who are children, or those who are termed "vulnerable" even though they may be adults, researchers are more reliant on gatekeepers, who come in the form of parents or carers as well as the organisations you recruit through. Gatekeepers can be protective of these populations, controlling access, but can also be key in enabling participation to take place. Undertaking research such as this requires them to have the time and resources to dedicate to identifying potential participants and then supporting them through the process. This is something which can be an extra task for a workforce already under pressure. So, while organisations may understand the importance of participation and wish to support this, it may not always be possible.

Even where participants are identified and gatekeepers are able to support participation, children and young people may still choose not to take part.

As one Social Worker who took part in the research stated about the child she was working with, "...she won't discuss it [the sibling imprisonment] which is why I knew she wouldn't take part in this. I think she thinks we're out to catch them out, you know". Where children and young people are used to telling their story, and this resulted in action by social work, they are perhaps unable to distinguish the difference between talking to social workers about these experiences and talking to a researcher, arranged through social work. Of course, children and young people do also have agency and may simply wish not to take part in this work.

## Recommendation 42

**Funders and organisations carrying out this type of research with "hidden" populations should be aware of the time and resources needed to do this work and the challenges around supporting the meaningful participation of children and young people.**

### 3.3.2 Project Officer / Consultants

As outlined in the Methods section above, a Project Officer and six Consultants have been employed during the second year of this project. They formed an Expert Advisory Group and initially met fortnightly to enable the group to build relationships, and then continued to meet monthly, with nine sessions held between December 2022 and July 2023. There may be further meetings with the group following the production of this report focusing on the dissemination of the findings. These sessions were designed and delivered by the Research Officer on the project, along with the Participation Development Worker at Our Hearings, Our Voice (OHOV) (a Hearings-experienced Board of children and young people). The Participation Development Worker provided invaluable experience of participation work and supported the work during these sessions. It would not have been possible to carry out these sessions and support the participation of the Consultants without her input and support, on both a practical level, where two people are needed within a session, but also her knowledge and experience of working with children and young people in these participative ways.

Given the stage at which the Project Officer and the Consultants joined the project, they were unable to influence the original research questions or design, or to be involved with the initial recruitment aspects of the project. Their influence following their recruitment, however, has been clear: their views, along with data from the initial interviews with those in the YOI, provided further clarity that the recruitment criteria should be widened to include those within secure care for any reason, not just criminal justice sanctions. Their arguments were key in persuading the project's Research Advisory Group to make this change. This has widened the types of experiences brought into this research while also highlighting the similarities in experiences between children and young people in these two environments. The group also created a video to be used in the recruitment



of participants, and this was shared widely on social media. The Consultants provided additional connections and routes to recruitment, particularly through the education sector, and due to these personal connections, people were likely more receptive to assisting us in highlighting the project to potential participants. The Consultants were also involved in carrying out some analysis of the initial interviews with those currently in the YOI. These analyses provided new insights to some of the themes coming from this data, while also supporting the themes identified by the researcher, adding a level of confidence to this analysis.

An early gap identified within the data was around Social Workers' knowledge and understanding of children and young people's experiences of sibling imprisonment and the processes which could enable them to maintain relationships with a sibling in prison, should they wish to do so. This resulted in the creation of a Social Work Information Sheet on this topic, the design and creation of which was led by the Project Officer, alongside other staff at Families Outside, and with input from the Consultants.

The learning from this project around the challenges of children and young people's participation, as well as the barriers and facilitators to this, was the basis of two workshops. One of these was held at the CYCJ Conference in June 2023, and another to be held at the Social Work Scotland Conference in October 2023. While the application to hold these workshops and the initial design plan was created by Research Officers within SCRA, the introduction to the CYCJ workshop was designed and delivered by the Project Officer, with input from both the Staying Connected Consultants and members of OHOV. The small group discussions at the CYCJ workshop were also facilitated by the Project Officer, one of the Staying Connected Consultants and a member of OHOV, supported by the Participation Development Worker at OHOV and two of the Research Officers at SCRA.

The Consultants were also involved in providing their thoughts and feedback on this research report, and the key themes and recommendations contained within it.

These are all direct impacts and outcomes for the project which have benefitted from the involvement of the Project Officer and the Consultants. This report and the recommendations that are within it are also strengthened due to their involvement.

There have also been benefits for the Project Officer and the Consultants themselves. In simple terms, they have been paid for their work and time spent working and advising on aspects of the projects. The intention was for the recompense for their involvement to be more than just this, however. They have also been able to develop skills through being part of the project, for example in creating a video for use on social media in the participant recruitment, to learn about the research process, and to be involved in the creation and, for some, the facilitation of a workshop for practitioners. They will continue to be involved in the dissemination work following the production of this report and in using this to influence policy and practice. We have been able to provide a reference for one Consultant who was applying to a postgraduate course and would offer this

for other Consultants should they need this in the future. Hopefully their continuing participation will also meet the needs many spoke of when applying for the role, which was around influencing change and improving the experiences of other children and young people involved in the care and criminal justice systems as they had been.

### **3.3.3 Barriers, Facilitators and Experiences of Participation**

Similar to participation of children and young people as research participants, there are both barriers and facilitators which can impact on participation as Consultants or members of Advisory Groups. From discussions held with the Project Officer and the Consultants during the project, they identified the following issues as potentially affecting participation in these types of role:

- The use of, and access to, technology where online or hybrid participation is possible
- The location and accessibility of meeting spaces, and navigating public transport
- The use of certain language or jargon as well as requiring a certain level of literacy for some tasks and engagement
- The unknown and uncertainty of the co-production or collaborative process
- Previous experiences or wariness around there being a lack of impact from the participation
- Risk of re-traumatisation where experiences are being shared in these spaces

They also identified facilitators which could address these:

- The use of trauma-informed practice
- Co-creation of rules and boundaries in the space
- Flexibility – with participants, with arrangements, with remuneration
- Asking questions about individual needs and requirements
- The importance of breaks and food in supporting emotional labour and building relationships
- Ensuring a confidential safe space
- Providing information – about what will happen in sessions, and reminders of them

The Consultants spoke of the positive aspects of their involvement in the Staying Connected project. They appreciated the flexibility of the sessions where, for example, one Consultant was able to bring their baby. Times and dates were

planned to accommodate the group's other needs, and sessions had online elements where that was possible, though they did also recognise the issues around these hybrid sessions as pointed out above. They also appreciated the time given over to catching up with each other at the start of a session, and the building in of breaks and a full hour for lunch where food was provided.

The meetings were mainly held in the SCRA building, which though not in the Hearing Suite or even in that section of the building, did involve the Consultants entering through reception, as they would have done had they attended Hearings there. This was discussed with Consultants to ensure that they were happy with this, and had it become an issue, an alternative space would have been found. When discussing this with the Consultants, they recognised that the fact that the space was free and accessible was a positive but that there may be issues for some given their experience of coming to Hearings previously in this building. The project also budgeted for payment of Consultants at a half-day or day-rate and the payment of any travel expenses. There was also the option for staff to book travel tickets for the Consultants rather than them having to buy a ticket and then claim for the cost.

The Consultants were incredibly reflective on their experiences of what was loosely termed "co-production" around how we were hoping to work with them on the project. They raised the issue of how the unknown or "vagueness" around this type of work felt, though recognised that this was not something we had planned, so in a way, we were working through these aspects together. When they initially spoke about their experiences, this was three months after they started and was in the middle of the data collection phase of the research. They spoke about feeling that their voice had been heard in the sessions so far but that they weren't sure about the impact they had been able to have on the project at that stage. They also spoke about how what they had been involved in so far was not true co-production, which was something the Research Officer also felt was accurate, given the stage they had joined the project and what they had been able to be involved in up until that point. Further learning around the Consultants' experiences of their participation in this project will continue after the production of this report.

### **3.3.4 Reflections on Learning**

Identifying and recruiting children and young people, either as research participants or in Consultant or Advisory Group roles, can be incredibly difficult, as well as time and resource intensive. This is particularly true where you wish to engage with a range of people with diverse experiences, and where they are from "hidden" populations. Often the routes to recruiting people mean that the same voices can be heard across many projects and there is a lack of diversity of voice included. To ensure children and young people's participation to any extent is time and resource intensive, but to widen out these opportunities to truly be open to all compounds these issues.

Specifically in terms of Advisory Groups, forming, facilitating and supporting the development of groups such as this is a role in and of itself and can require a different, though sometimes overlapping, skillset to that of a researcher. This is even with a group of Consultants who are all adults. The extra complexity and support needed where you wish to enable children to participate is something which is not always understood or appreciated, let alone built into project funding or timelines. Similarly, with limited resources to support this participation, it can mean that those who do take part are the most able and are those who do not need as much support to attend or take part in group sessions. To support any participation, let alone to then build on this to ensure a wider range of voices are included, means there needs to be a greater level of support for Advisory Groups than can be provided by someone already carrying out a role such as a Research Officer on a project. To make participation truly meaningful and open to all, it must be adequately resourced.

It can be hard to work in more collaborative ways. It is not easy to share power in projects, even when you recognise why it is important to do so, understand the benefits and wish to work in this way. Changing working practices is difficult and can take time. There has to be the space for people to learn to work in these different ways and for this change to be supported. There is also a responsibility to explain to participants that we are not used to working in this way, that we are not experts in being able to “co-produce”, that this is something we can learn together. This is something that was always made clear to the Project Officer and Consultants in this project, and I hope we have learned together about the processes of working collaboratively on a piece of research such as this.

## 4. Discussion

This chapter summarises the main findings of the research across each of the above sections in the Data Analysis chapter.

### Data and Decision-making

One of the five pillars of The Promise is Voice, making it clear that the child's voice must be heard in processes in which they take part. This includes Children's Hearings. Their participation rights within a Hearing generally and in terms of being able to share their views on relationships with those who are important to them, including siblings, must be upheld. To ensure that they are able to fully participate and have their voice heard they must be aware of and understand their rights in terms of these relationships.

The lack of data recording around sibling imprisonment for children made identification of this group difficult. This lack of knowledge also impacts on the

ability of children and young people to be supported with this experience, for example by their Social Worker, where they choose not to disclose the situation to them. There is no notification system when a sibling enters prison, and children and families may also be reluctant to disclose this, particularly to Social Workers, resulting in a lack of awareness and therefore the ability to offer support. Silo working between different social work teams, for example Children and Families Social Work and within the community and prison-based Criminal Justice Social Work may also impact on levels of data sharing and being able to work together to support both sides of these sibling relationships. A lack of consistency in the provision of sibling data to SCRA was also an issue. This is something which could be addressed by the Staying Together and Connected National Implementation Group (STaC NIG) (2023) recommendations, that an assessment of relationships takes place when children become known to social work services, and a relationship mapping tool be developed.

A lack of data recording in terms of conversations which are occurring both before and during Children's Hearings in terms of sibling or sibling-like relationships which are important to the child, means that it is not possible to monitor the implementation of the sibling legislation fully or the commitment to keep The Promise in terms of supporting the maintenance of sibling relationships. This is something which was emphasised in the STaC NIG final report (2023). It is key that where we are talking about data and decision-making that this is in terms of biological and step-siblings as well as sibling-like relationships, as covered by definitions within the sibling legislation.

In terms of data sharing, it is important that sibling groups should have a single Social Worker where this is practical. Where this does not happen, there should be communication between the Social Workers for the different siblings.

Where decisions are taken around sibling relationships where one is within a prison or secure care, we need to understand more about the potential role this location or the impact of the presence of offending behaviour has on the decisions being made. A recent Independent Family Review by the Children's Commissioner in England (de Souza, 2023) found that children who were in care due to "socially unacceptable behaviour" were more likely to be separated from their siblings. While not specifically related to offending behaviour, one of the children who contributed to this piece of work spoke about how they felt their sibling relationships were subject to a higher level of scrutiny than those who were not in care (de Souza, 2023).

Revisiting decisions is also key. Firstly, this is in terms of discussions between Social Workers and children around this. An audit of Social Work files around sibling relationships found it was not always clear when children's views were obtained, if they had been revisited and if children had changed their mind (Mannion, 2021). This echoes the findings from this piece of work. Secondly, within Children's Hearings themselves, it is important children understand their rights to have these decisions revisited without having to wait for an annual review.

## Sibling Separation – Rebuilding as well as Maintaining Sibling Relationships

All but one of the children and young people who were interviewed had been separated from their siblings previously through separate placements when entering care. While we often talk about maintaining sibling relationships, here it is also about rebuilding them. The Staying Together and Connected National Practice Guidance (Scottish Government, 2021b) mentions both the rebuilding and maintaining of sibling relationships, making it clear that while there will be different requirements needed for rebuilding relationships compared to maintaining them, there is a duty to support both. The Promise and sibling legislation should see a reduction of this sibling separation, and where it does take place, an increased focus on the maintenance of these relationships. It is important, however, to remember there are still children and young people dealing with the consequences of previous sibling separation and the impact of the 'care system' on them as it was when they were going through it. Barriers to Maintaining Sibling Relationships

There are multiple barriers to the maintenance of sibling relationships where at least one sibling is in prison or secure care. Often, both of these environments have similarities. For example, the distance of families from someone who is in prison or secure care can make visiting difficult, particularly where they have to use public transport, with the locations not always being easily accessible. This significant distance interferes with expectations under Article 8 of the ECHR where a child has the right to a family life, and under Article 9 of the UNCRC in terms of their contact with parents.

Related to this distance are the financial costs of visiting, and supporting the use of telephone calls from prison where these can incur a cost after the 310 free minutes each prisoner received at the time of writing was used, and are often financed by family members. This financial impact is something many families affected by imprisonment experience (Nugent, 2022). These costs can be supported by local authorities where a sibling is within secure care, but this is less consistent where a sibling is in prison. The 2019 Secure Care Census found that the majority of children from Scotland within secure care were placed less than 50 miles from their family, but that the cost and the challenge of making that journey could be huge (Gibson, 2021). It also found that 46% of children who were from a Scottish local authority were living in relative poverty (ibid.), showing that the funding of travel is a key mechanism in ensuring these sibling relationships are able to be maintained. With the prison population in Scotland also tending to be drawn from the most deprived areas (Scottish Government, 2020b), this is likely to also apply to families where a child or young person's sibling is in prison. The recent Universal Periodic Review by the Committee on the Rights of the Child (2023) makes it clear that "*financial support for visits and remote contact*" should be available for children in the UK whose parents are in prison. It is important that this should also apply where a child's sibling is serving a custodial sentence.

There can also be an emotional impact related to maintaining a relationship with a sibling who is in prison or secure care. This impact can be experienced by the person who is in prison or secure care, as well as their siblings, and can lead to difficult decisions not to see or keep in touch in some cases. Therefore, it is important to support all children and young people, not only those who choose to maintain these relationships, but also those who feel they cannot.

Parents and carers can act as gatekeepers to contact between siblings, with the STaC NIG recognising the need for “active support” from carers and families to support these relationships (2023, p. 9). However, further work needs to be carried out to understand the potential impact of carers and different care placements on the maintenance of relationships. In terms of parents, it is important there is an understanding of the power and control they can have over a child’s opportunities to maintain their sibling relationships. It should also be understood that some children and young people may choose to maintain difficult parental relationships in order to ensure they can stay in touch with siblings, and the potential impact maintaining these difficult parental relationships can have on them.

The environments within a prison and secure care are different but have similarities which can act as barriers to children and young people maintaining relationships with their siblings. The lack of privacy during visits and on telephone calls (where calls are supervised in a secure care setting) can have an impact on interactions and relationships. Though it is recognised that within these settings there must be a balance between aspects of safety and security and the needs and rights those within the prison or secure care as well as those visiting.

The process of entry into both locations can also feel intimidating for children and young people. While visits in secure accommodation were felt to be better, there were still issues around these. The importance of having “quality time” with your siblings rather than it simply being about the amount of time they had together was mentioned, as was the fact that it was about the “wee stuff”. It is important to think about the opportunities for brothers and sisters to be able to have more “normal” relationships in the visit spaces in both locations. Something recognised by the STaC NIG, where “fun”, “choice”, “normality” and “privacy” were all mentioned, should also apply to time spent with siblings in a prison or secure care environment (2023, p. 9). We also need to understand more about how all relationships can be supported for children and young people in these spaces, not only those with parents. This will include those with their siblings. Work within the field of familial imprisonment research is beginning to draw on the idea of “family practices” (Morgan, 1996, Jardine, 2019; Deacon, 2022) which could help us begin to think about making these changes.

In terms of secure care specifically, the secure environment means that in some aspects, contact for children within that space is much more tightly controlled than even for those who are within a prison setting. While the risk assessments carried out by Social Workers may result in a lack of contact between a child and their sibling, or sibling-like relationship, this research has highlighted that a barrier

to this contact can actually be a lack of understanding or assumptions made by the child around who they will be allowed to keep in touch with, preventing them from raising this with Social Workers in the first place. It is important that children understand their rights around sibling relationships and what they are allowed to ask for in terms of maintaining these.

### **Barriers are Compounded by Care-experience**

While these barriers will be relevant for all children and young people with a sibling in prison or secure care, it can be compounded when the children or young people are also care-experienced. They can be more likely to live in deprived areas or in poverty, with over half of children with CSOs having home postcodes within the two most deprived data zones (SCRA, 2022). This could mean they are more likely to have to use public transport to visit and to struggle with the financial costs of supporting sibling relationships. These children and young people, and their families, can have more complex lives (Woods et al., 2018). Care-experienced children and young people have higher levels of mental health difficulties than the general population (Sanders, 2020b; Smith, 2017) and are more likely to experience homelessness (CELCIS, 2019; Fortune and Smith, 2021). This means that a sibling being in prison or secure care can be only one of the issues they are dealing with. Care-experienced children and young people can have different, and in some cases, more difficult relationships with their parents. Siblings can take on elements of the parental role, and there may be different relationships between siblings, given trauma experienced together as children. The fact there may be social work involvement in these children and young people's lives can compound some of the barriers above by adding an extra layer of complexity to visiting or contact arrangements. This can be true particularly where a sibling is in prison and there is a lack of knowledge by the Social Worker of the processes around arranging visits or telephone calls and what is allowed. Social Workers can also provide a huge level of support, however, ensuring that these relationships are able to be maintained in a way that is not available to families without this involvement.

### **Facilitators to Maintaining Sibling Relationships**

The importance of there being someone who was able to support both the sibling in prison or secure care and their brothers and sisters was key for these children and young people. While they said that this support should be independent from Social Work or prison officers, Social Workers did talk about the significant levels of support they were providing to the children and young people they worked with. The role of the Family Contact Officer did not appear to be entirely understood in relation to supporting sibling relationships and was spoken of more in terms of parent/child relationships.

As was spoken about in the Learning About Participation section, it takes time to build relationships. This is as true in terms of those working with and providing support to siblings who are separated as it is for working with children and young people on projects such as this. Limited resources can impact on the ability to



build these relationships, for example in terms of workloads for Social Workers, or in terms of time able to be spent with those in prison who are on remand or have short-term sentences for prison staff.

When asked about improvements, many of those who were currently in prison themselves spoke about the opportunity for children's or bonding visits being available for those visiting their siblings and not just for those visiting parents. Video calls offered the opportunity for travel distance to be overcome and for more natural opportunities to "be" a family together, such as watching TV or helping siblings with their homework. While these should not replace in-person visits, they can provide a positive supplement to them. However, it should also be borne in mind that cost, access to suitable devices and digital literacy can be a barrier to being able to access video calls, and that this might be a particular issue amongst those within care-experienced communities (Sanders, 2020; Roesch-Marsh et al., 2021; Armstrong and Pickering, 2020).

### Simultaneous Imprisonment

The experiences of children and young people who are in custody at the same time as a family member, including a sibling, whether in the same or different prisons is often overlooked. It is rarely recognised in research, policy and practice, including within the current SPS Family Strategy or within The Promise. From the little research there is available on this, however, this is not an uncommon experience. Research in Australia showed that more than 80% of Indigenous and a third of non-Indigenous people held in prison had a family member who was also currently in prison, based on prison survey respondents who reported having two or more generations of incarceration within their family (Halsey, 2018).

It can be a contradictory experience, with young people speaking about it being stressful when a family member is in prison, particularly the same prison as them, and regardless of whether they are able to have contact with them, but that having family in the same place where they do have contact can also provide support (Deacon, 2022b). These relationships can also be viewed in more negative ways by the prison, who can separate siblings when within the same prison. There were also examples of prison staff being incredibly supportive of these relationships, however, and understanding the importance of supporting contact between brothers and sisters who were in prison at the same time. There is an ambiguity around what is allowed in terms of contact with simultaneously imprisoned family members. No minimal levels are contained within The Prisons and Young Offenders Institutions (Scotland) Rules 2011, as there are in terms of visits with those outside of the prison. The Rules only mention the provision of inter-prison visits in "exceptional circumstances", and this language is repeated in the SPS policies around inter-prison visits.<sup>27</sup> There appears to be no specific provision for inter-prison telephone calls or contact between family members who are held within the same prison but are in different Halls. This can result in inequality where it depends on decisions made by individual staff within the prison or whether the person held in prison is aware of what they can ask for

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27. Scottish Prison Service (2017) Policy & Guidance for Inter Prison Visits. Edinburgh: Scottish Prison Service.

in the first place. This reflects findings from previous, though limited, research on these experiences (Deacon, 2022b). It is important, however, that any policies that were brought in set out a minimum level of contact which was allowed and did not result in the unintended consequences of lowering the contact children and young people were able to have with simultaneously imprisoned siblings through more unofficial arrangements.

## **Participation**

The importance of including the voices of those impacted by services and systems in their design and implementation has been made clear by The Promise (Independent Care Review, 2020) and the Scottish Government (2023a). This includes the participation of children and young people. There are numerous benefits from meaningful participation, both for organisations and those who participate themselves (e.g. Steen et al., 2011; Coates and Howe, 2014; Scottish Government, 2023b). Including the voices of children and young people as research participants as well as in the roles of Project Officer and Consultants on this project has been an important but challenging process.

Identifying potential research participants within what have been termed “hidden” populations can be difficult, and it involved a significant amount of time and resources. This is particularly true where populations are “non-associative”, therefore there is no centralised information about the population (Thompson and Phillips, 2007). This is the case for those with a family member in prison and is reflected in the time and resources required to recruit what may seem a relatively small number of participants within this project. This is both in terms of the demands placed on the Research Officer working on the project but also on the gatekeepers who helped facilitate this participation. Creating and working with advisory groups of children and young people is also resource intensive. There is a need for time and space to build and develop relationships, with those facilitating the group but also amongst the children and young people themselves, and to allow a level of flexibility (Gillon and Swann, 2023). These requirements must be recognised by the organisations who fund this type of work, as well as within organisations who carry out these types of project or support children and young people’s participation within them.

As has been recognised in previous research (Hayes, 2005; Lennox et al., 2005; Tremblay et al., 2018; Gillon and Swann, 2023) the role of gatekeepers is key in enabling, or creating a barrier to, participation. These “research relationships” are key in facilitating or hindering work across the research process (Kramlich et al., 2017). The context of carrying out this piece of work, following a period of lockdown due to Covid-19 and a reduction in the opportunities to meet in person and build relationships at in-person events, may also have affected these crucial relationships.

There is currently a push for increasing participation in organisations and the inclusion of the voices of those with lived experience. While this is important and welcomed, there is a need to recognise the challenges and resources required to ensure this participation is meaningful, is not tokenistic, and that it includes a diversity of voice.

## 5. Conclusion

This research took place within the context of the publication of The Promise in 2020 and the subsequent working towards its implementation, as well as the introduction of the sibling legislation in 2021. This work made clear the importance of siblings within the lives of children and young people, particularly for those in care. Brothers and sisters are part of five priority areas in the Promise Plan 21-24, which states that, “Relationships between brothers and sisters will be cherished and protected across decision-making and through the culture and values of the people who care for them” (2021, p. 23). The legislation placed a legal duty on local authorities to ensure siblings are placed together where appropriate but also, as is relevant where one sibling is in prison or secure care, to ensure that where they are separated that they are able and supported to maintain these relationships where they wish to. The Promise makes it clear that there should be “no barriers to ‘contact’” (The Promise, 2021, p. 23). This was reiterated by the Hearings System Working Group, and included in its recommendations is that, “You will be able to see the important people in your life when it is safe” (2023, p. 14). The Secure Care Pathway and Standards also outlined the rights of those within this form of care specifically to be “actively supported to be in touch with [their] family, friends and other people who are important to [them] unless this is not in [their] best interests” and that children “have a say in how and when this happens” (Scottish Government, 2020a, p. 7). The recent recommendations made by the STaC NIG (2023) made it clear what the immediate, medium- and longer-term requirements are to allow Scotland to ensure that care-experienced siblings stay connected. This must include those who are separated where a sibling is in prison or secure care and take account of these unique experiences. The research also sits in the wider context of the Getting it Right for Every Child framework and the planned incorporation of the United Nations Convention on the Rights of the Child, which confer rights on all children within Scotland and expectations on organisations working with and for them, as well as those whose decisions affect them.

While the increased focus on the importance of sibling relationships for care-experienced children and young people in particular is important, the lack of consistent data means we are currently unable to monitor and evidence if we are meeting their needs, effectively implementing the changes introduced by the legislation and #KeepingThePromise for care-experienced children and young people in Scotland. Changes in the CLAS data return around sibling separation data (STaC NIG, 2023) may address some of these data gaps, but not all.

While there are, fortunately, relatively small numbers of children and young people within secure care and prison in Scotland, these can be some of the most vulnerable within our society. The separation of siblings where one is in prison or secure care is significant in its impact on children and young people, regardless

of whether they choose to maintain these relationships. This specific separation experience is still not widely recognised or understood. This report begins to address some of the gaps in this knowledge, but more work needs to be done to understand these experiences fully and address the needs of siblings who are separated where at least one has been deprived of their liberty and is within a prison or secure care environment.

While it is important to address this separation of siblings and support the maintenance of these relationships, it is also key to recognise that we must work to reduce the high levels of criminalisation of children in care, as called for by The Promise, and reduce the disproportionate levels of those who are care-experienced within the prison system. There is also a need to reduce the prison population in Scotland generally, which is one of the highest in Western Europe (World Prison Brief, 2023). This work would reduce the numbers of children and young people impacted by this type of sibling separation and the need to then maintain these sibling relationships within this environment. Similarly, in terms of secure care, by exploring community-based options for those within secure accommodation and ensuring the secure care estate in Scotland is only for those who truly require a deprivation of their liberty, we would reduce the need to separate siblings in this way.

Where this separation does occur, however, the focus must be on the requirement to maintain these relationships in these instances, where this is what the children and young people want, and overcome the barriers in place to achieve this. This can result in the requirement being to rebuild rather than simply maintain these relationships for some children and young people. These will be different processes, but both require to be understood and supported. At times, this re-establishing of sibling relationships may have to take place where one sibling is within prison or secure care. Relationships should also be maintained within these environments where this is the initial cause of sibling separation.

The implementation of The Promise and sibling legislation should reduce the levels of sibling separation where there were minimal levels of contact, as experienced by many of the participants within this research. We do not know what this may mean where someone in these sibling groups is then sent to prison or spends time in secure care. It may result in these children and young people having different experiences and needs to those outlined in this report. It is important that we therefore continue to ask the questions of what they want and need in terms of these sibling relationships and support this to ensure that we meet their needs and respect their rights, as well as meet the requirements of the legislation, ensuring we #KeepThePromise for all of Scotland's children.

## 6. Recommendations

This section pulls together the recommendations from throughout this report and rearranges them thematically under the following headings: Raising Awareness and Understanding, Support and Rights, Processes, Data and Further Work. These recommendations arise from the findings across all of the sections within this report. They are intended to highlight the key points of further action that are needed from organisations within the care and the criminal justice systems to fulfil their duties within the relevant policy and legislative context. This will ensure the rights of siblings who are separated where at least one is in prison or secure care are upheld, and that they are supported through these experiences.

The recommendations are made in an awareness of the current context that all organisations in Scotland are working within, where restricted budgets and limited resources will make the implementing of some of these recommendations challenging. This will apply across the range of stakeholders for whom these recommendations are relevant – local authorities, organisations within the Children's Hearings System, secure care providers, prisons and third sector organisations. The recommendations have been made, however, as they are what the data speaks to being necessary and are what the relevant legislation sets out as the rights of these children and young people. That said, through working with partner organisations as part of the Research Advisory Group, some of these recommendations have already been discussed and have been taken on board. They have fed into developments which were already underway in some of the organisations, for example the Scottish Prison Service's new Corporate Parenting and Families and Parenting Strategies.

The recommendations are also made with an awareness that there are operational considerations which must be taken into account where decisions are made within prisons and secure care settings, for example, in terms of visits. They are here, however, to raise awareness of what should be thought about when decisions are being made within these settings.

Local authorities; the Scottish Prison Service and contracted establishments; prison visitor centres; secure care providers; the Scottish Children's Reporter Administration; Children's Hearings Scotland; Families Outside and other relevant organisations should raise awareness and understanding within their organisations of the impact of sibling imprisonment where one is in prison or secure care, and the compounding impact of care-experience.

**Recommendation 30**

Raise awareness within the Scottish Prison Service (and contracted establishments) and providers of prison visitor centres of how being care-experienced may specifically impact on those with a family member, including a sibling, in prison and how this can be supported.

[\(3.2.4 Barriers are Compounded by Care-experience, p. 70\)](#)

**Recommendation 31**

Ensure information is easily available for professionals who may be supporting care-experienced children and young people with a sibling who is in prison.

[\(3.2.4 Barriers are Compounded by Care-experience, p. 70\)](#)

**Recommendation 32**

Ensure that there is a knowledge and awareness by those in prison and their families of the full role of the Family Contact Officers, in terms of who they can work with and the relationships that can be supported, including those with siblings.

[\(3.2.5 Facilitators to Maintaining Sibling Relationships, p. 71\)](#)

**Recommendation 33**

Raise awareness with Family Contact Officers of the impact of sibling imprisonment on children and young people.

[\(3.2.5 Facilitators to Maintaining Sibling Relationships, p. 71\)](#)

**Recommendation 36**

Further raise awareness of issues around sibling separation where one is in prison or secure care and the requirements around meeting the sibling legislation and The Promise consistently for all children.

[\(3.2.5 Facilitators to Maintaining Sibling Relationships, p. 73\)](#)

**Recommendation 39**

Ensure that prison staff have an awareness that "family" can also mean people who are in prison themselves and ensure that this is reflected in prison policy documents and training around familial imprisonment.

[\(3.2.6 Simultaneous Imprisonment, p. 76\)](#)

**Recommendation 40**

Raise awareness of the meaning of being “care-experienced” and ensure that children and young people understand whether they meet the criteria to be classed in this way (not simply in terms of research but other provisions for care-experienced children and young people).

[\(3.3.1 Research Participants, p. 77\)](#)

**Local authorities, the Scottish Prison Service and contracted establishments; secure care providers; the Scottish Children’s Reporter Administration and Children’s Hearings Scotland should ensure that children are aware of their rights to maintain and rebuild sibling and sibling-like relationships. They should provide support to these children and young people, regardless of whether they choose to maintain and rebuild these relationships or not. They should also ensure that children and young people are informed about what to do when their rights are not being respected.**

**Recommendation 6**

Support children and young people to feel comfortable to share the fact a sibling is in prison with their Social Worker or other important people in their lives.

[\(3.2.1 Data and Decision-making, p. 44\)](#)

**Recommendation 12**

Ensure that children are aware of their rights around sibling relationships and contact within Children’s Hearings and are supported to share their views around this in that space.

[\(3.2.1 Data and Decision-making, p. 48\)](#)

**Recommendation 13**

Ensure that decisions around sibling relationships made within the Children’s Hearings System are revisited regularly and that children and young people know their rights around being able to request these decisions be revisited.

[\(3.2.1 Data and Decision-making, p. 49\)](#)

**Recommendation 15**

Recognise that some sibling relationships will need to be rebuilt rather than just maintained. Rebuilding and maintaining relationships are different and may require different support, but the state has a responsibility to understand and support both.

[\(3.2.2 Sibling Separation – within care, secure care and prison p. 50\)](#)

<b>Recommendation 17</b>	
Ensure that families are aware of support for travel costs to prison and secure accommodation. Ensure that there is a consistent approach to this across all local authorities. <a href="#">(3.2.3.2 Financial Cost, p. 55)</a>	
<b>Recommendation 18</b>	
Review the eligibility criteria for the support for travel costs to prison and secure accommodation to ensure that children and young people are able to maintain relationships within anyone who is a key person in their life, including siblings. <a href="#">(3.2.3.2 Financial Cost, p. 56)</a>	
<b>Recommendation 19</b>	
Explore the extension of the statutory right to support contact with a parent for children in care to be for anyone who is a key person in their life, including siblings. <a href="#">(3.2.3.2 Financial Cost, p. 56)</a>	
<b>Recommendation 20</b>	
Support should be provided to all children and young people who are separated from siblings who are within prison or secure care, regardless of whether they wish to maintain or rebuild their relationship at that point. <a href="#">(3.2.3.3 Emotional Impact, p. 57)</a>	
<b>Recommendation 21</b>	
Support should be provided to children and young people within secure care and within prison around visits and their experiences of maintaining contact with their family. <a href="#">(3.2.3.3 Emotional Impact, p. 58)</a>	
<b>Recommendation 23</b>	
Explore the needs of siblings specifically in terms of visits in prison and secure care and ensure there is effective and natural contact for this group of children and young people within these environments. <a href="#">(3.2.3.5 The prison/secure care environment, p. 59)</a>	
<b>Recommendation 26</b>	
Ensure children and young people with additional support needs are able to access visits in prison and secure care and have their needs accommodated within these environments. <a href="#">(3.2.3.5 The prison/secure care environment, p. 65)</a>	



**Recommendation 27**

Ensure there is adequate access to telephones within prisons and secure care locations to allow relationships to be maintained.

[\(3.2.3.5 The prison/secure care environment, p. 66\)](#)

**Recommendation 28**

Ensure that children and young people are aware of their rights around sibling contact while they are within secure care or prison. This should also cover who can be seen as a sibling, e.g. full, half or step-siblings as well as “sibling-like” relationships. They should be informed of what to do when their rights are not being respected.

[\(3.2.3.5 The prison/secure care environment, p. 68\)](#)

**Recommendation 29**

Ensure that support is in place for care-experienced children and young people where their sibling is in prison or secure care which takes account of their specific experiences and context.

[\(3.2.4 Barriers are Compounded by Care-experience, p. 69\)](#)

**Recommendation 34**

Ensure that children's visits are open to being accessed by all children, not only those visiting a parent in prison.

[\(3.2.5 Facilitators to Maintaining Sibling Relationships, p. 72\)](#)

**Recommendation 37**

Ensure there is clarity around what minimum level of contact is allowed between family members, and what form this can take, when in the same or different prisons at the same time. This should not result in a reduction in the level of contact taking place where prison staff are able to use their discretion and instead should be a minimum requirement.

[\(3.2.6 Simultaneous Imprisonment p. 76\)](#)

**Recommendation 38**

Ensure that young people in prison know their rights around levels of contact allowed with family members who are also in prison. They should be informed of what to do when their rights are not being respected.

[\(Simultaneous Imprisonment, p. 61\)](#)

**Local authorities, the Scottish Prison Service and contracted establishments; secure care providers, the Scottish Children's Reporter Administration and Children's Hearings Scotland should ensure that their organisational processes enable information to be shared where appropriate and that children and young people can have their voices heard within processes of which they are a part.**

<b>Recommendation 7</b>	
<p>Build connections between different social work areas (e.g. children and families, justice, prison) to improve knowledge and information sharing around care-experienced children and young people with a sibling in prison. (3.2.6 Simultaneous Imprisonment p. 77)</p>	
<b>Recommendation 8</b>	
<p>Ensure that prison induction covers prompts about family members and what this can mean for people, including siblings and sibling-like relationships. (3.2.1 Data and Decision-making, p. 44)</p>	
<b>Recommendation 11</b>	
<p>Ensure that, where appropriate, all those within a sibling group have the same Social Worker, and where this is not the case that there is communication between all Social Workers working with those within a sibling group. (3.2.1 Data and Decision-making, p. 46)</p>	
<b>Recommendation 14</b>	
<p>Ensure that decisions around sibling relationships made within the Children's Hearings System are revisited regularly and that children and young people know their rights around being able to request these decisions be revisited. (3.2.1 Data and Decision-making, p. 50)</p>	
<b>Recommendation 16</b>	
<p>Consider alternative options to the location of secure accommodation places in Scotland and whether there are opportunities for children to be held closer to their homes and families. (3.2.3 Barriers to Maintaining Sibling Relationships, p. 55)</p>	
<b>Recommendation 24</b>	
<p>Ensure that conversations with children around their desire to visit a sibling in prison or secure care allow the children to freely express their views, and that they are revisited regularly. (3.2.3.5 The prison/secure care environment, p. 65)</p>	
<b>Recommendation 25</b>	
<p>Ensure the decision-making processes around contact for those within secure care meet the Secure Care Pathway and Standards. 3.2.3.5 The prison/secure care environment, p. 65)</p>	
<b>Recommendation 35</b>	
<p>Explore opportunities for visits with imprisoned siblings to take place outside of the prison environment. (3.2.5 Facilitators to Maintaining Sibling Relationships, p. 72)</p>	

**Recommendation 41**

Consider the streamlining of ethical processes across local authorities and secure care providers.

(3.3.1 Research Participants, p. 78)

**Local authorities, the Scottish Prison Service and contracted establishments; secure care providers; the Scottish Children's Reporter Administration; Families Outside and other relevant organisations should systemically record, and share where appropriate, data on the sibling and sibling-like relationships that are important to children and young people in care or prison.**

**Recommendation 1**

Ensure both maternal and paternal sides of families are represented in data recording processes to get a full picture of a sibling group and relationships.

(3.1.2 Analysis of sibling data, p. 35)

**Recommendation 2**

Ensure that sibling-like relationships for children and young people are discussed and recorded to meet the requirements of the sibling legislation.

(3.1.2 Analysis of sibling data, p. 36)

**Recommendation 4**

A standardised form is used across all local authorities to ensure a consistency of information which is submitted to SCRA in relation to siblings.

(3.1.2 Analysis of sibling data, p. 37)

**Recommendation 5**

Ensure organisations maintain a record of where a child or young person's sibling is in prison. Ensure full details are held where relevant (e.g. name of prison) to support the maintenance of contact or compliance with the Participation Individual legislation.

(3.2.1 Data and Decision-making, p. 42)

**Recommendation 9**

Ensure that care-experienced status is accurately recorded for those in prison by including a full description of what this can cover for those answering this question.

(3.2.1 Data and Decision-making, p. 44)

**Local authorities; the Scottish Prison Service and contracted establishments; secure care providers; the Scottish Children's Reporter Administration; Children's Hearings Scotland, the Scottish Government and funding organisations need to consider what further work may be needed to fully understand the experiences and needs of care-experienced children and young people with a sibling in prison or secure care and ensure their rights are being met.**

**Recommendation 3**

Further work is needed to monitor the use of Sibling Contact Forms and Participation Individual assessments by local authorities and SCRA to monitor the implementation of the sibling legislation.

[\(3.1.2 Analysis of sibling data, p. 37\)](#)

**Recommendation 10**

Further work is required to evidence whether conversations are taking place around sibling relationships both prior to and within Children's Hearings. This should take account of all sibling relationships, including "sibling-like". The results of these conversations should be consistently included within reports for a Children's Hearing across all local authorities.

[\(3.2.1 Data and Decision-making, p. 45\)](#)

**Recommendation 14**

Further work is required to explore the role that offending or anti-social behaviour may play in decision-making around sibling relationships.

[\(3.2.1 Data and Decision-making, p. 50\)](#)

**Recommendation 22**

Further work is needed to ascertain the specific experiences of children and young people with a sibling in prison or secure care who reside within different types of care placement – e.g. kinship, foster, residential or looked after at home.

[\(3.2.3.4 Role of Parents/Carers, p. 58\)](#)

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# APPENDIX 1

## Staying Connected Policy and Legislative Context

### Getting it right for every child (GIRFEC)

GIRFEC is the national approach in Scotland for improving outcomes and supporting the wellbeing of all children and young people. Relevant GIRFEC policy and practice links can be found here:

<https://www.gov.scot/policies/girfec/>

### The Promise Independent Care Review

<https://thepromise.scot/resources/2020/the-promise.pdf>

Pages 62-63 specifically consider siblings.

### The Promise Plan 21-24

<https://thepromise.scot/resources/2021/plan-21-24.pdf>

*"Brothers and Sisters - Scotland will stop the practice of separating brothers and sisters, unless for reasons of safety. Relationships between brothers and sisters will be cherished and protected across decision making and through the culture and values of the people who care for them."* Page 23

### Corporate parenting

#### Children and Young People (Scotland) Act 2014

<https://www.legislation.gov.uk/asp/2014/8/contents/enacted>

Part 9 of the Act relates to corporate parenting which is defined as "the formal and local partnerships between all services responsible for working together to meet the needs of looked after children, young people and care leavers". A range of public sector organisations are designated as corporate parents in schedule 4 of the Act:

<https://www.legislation.gov.uk/asp/2014/8/schedule/4/enacted>

### Sibling legislation

#### Duty to place siblings together

The Looked After Children (Scotland) Regulations 2009, as amended by the Looked After Children (Scotland) Amendment Regulations 2021 states that where the local authority is considering placing a child with a kinship carer, a foster carer, or in a residential placement, and any brothers or sisters of the child are also looked after or about to be looked after, the local

authority must, where appropriate, place the sisters and/or brothers together (with the same carer or in the same residential placement) or in homes near to one another. The Looked After Children (Scotland) Regulations 2009

<https://www.legislation.gov.uk/ssi/2009/210/contents/made9>

The Looked After Children (Scotland) Amendment regulations 2021

<https://www.legislation.gov.uk/ssi/2021/103/regulation/3/made>

#### Duty to promote contact

Section 13 of the Children (Scotland) Act 2020 amended s17(1) of the Children (Scotland) Act 1995 to include a duty on local authorities to promote contact between looked after children and their siblings. The duty is to "take such steps to promote, on a regular basis, personal relations and direct contact between the child and any person mentioned in subsection (1A) as appear to them to be appropriate having regard to their duty" to safeguard and promote the welfare of the child. The persons mentioned in subsection (1A) are:

- (a) a sibling of the child, and
- (b) any other person with whom the child has lived and with whom the child has an ongoing relationship with the character of a relationship between siblings.

Children (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/16/section/13/enacted>

Children (Scotland) Act 1995

<https://www.legislation.gov.uk/ukpga/1995/36/section/17>

#### Views of siblings

Section 13 of the Children (Scotland) Act 2020 amended s17(3) of the Children (Scotland) Act 1995 to add siblings to the persons the local authority has a duty to ascertain the views of before making decisions about a child who is looked after by them or whom they are proposing to look after. The local authority must ascertain these views so far as reasonably

practicable (s17(3) of the 1995 Act) and have regard to them so far as practicable (s17(4) of the 1995 Act). This means the views of siblings must be actively sought and considered in decision-making.

Children (Scotland) Act 2020

<https://www.legislation.gov.uk/asp/2020/16/section/13/enacted>

Children (Scotland) Act 1995

<https://www.legislation.gov.uk/ukpga/1995/36/section/17>

### Children's Hearings

Section 14 of the Children (Scotland) Act 2020 amends s29A of the Children's Hearings (Scotland) Act 2011 to place a duty on Children's Hearings and on a Sheriff, when making, changing, or continuing a Compulsory Supervision Order for a child, to consider contact between the child and siblings they are not living with. (Sibling like relationships are included in this.)

Children (Scotland) Act 2020 s14

<https://www.legislation.gov.uk/asp/2020/16/section/14/enacted>

Section 25 of the 2020 Act plus changes to the Rules of Procedure provides a new set of rights for siblings to participate in their sibling's hearing when the hearing is likely to make a decision affecting their contact. To be afforded an opportunity to participate, an individual must meet the following criteria: they are living/have lived with the child; they have an ongoing relationship with the character of a relationship between siblings (whether or not they have a parent in common); the hearing is likely to make a decision significantly affecting contact or the possibility of contact between them and the child; and they are capable of forming a view on contact. Siblings who meet the criteria should be contacted by the Scottish Children's Reporter Administration (SCRA). Siblings can also request to participate in this way. A person 'afforded the opportunity to participate' will have the following specific rights: the right to be notified of the hearing, to attend the hearing, to receive relevant papers, to submit papers to the panel and be represented at the panel. There is a formal mechanism to allow a review process if any of the steps are not followed in allowing a sibling to participate. A person with participation rights will also have the right to call a review hearing after three months, in the same way as a child or relevant person.

Children (Scotland) Act 2020 s25

<https://www.legislation.gov.uk/asp/2020/16/section/25/enacted>

Children's Hearings (Scotland) Act 2011

<https://www.legislation.gov.uk/asp/2011/1/contents>

Practice and Procedure Manual

<https://www.chscotland.gov.uk/media/upyba23h/master-copy-practice-and-procedure-manual-v4-0-4-2022.pdf>

### Staying Together and Connected: Getting it right for sisters and brothers Practice Guidance

<https://www.gov.scot/publications/staying-together-connected-getting-right-sisters-brothers-national-practice-guidance/>

The Staying Together and Connected practice guidance aims to support implementation of the 'sibling duties' for local authorities. The guidance sets out helpful information for what siblings can expect in terms of their rights:

<https://www.gov.scot/publications/staying-together-connected-getting-right-sisters-brothers-national-practice-guidance/pages/4/>

### 'Rights' within secure care / YOIs /prison Secure Care

The Secure Care Pathways and Standards "set out what all children in or on the edges of secure care in Scotland should expect across the continuum of intensive supports and services. The Pathway and Standards provide a framework for ensuring the rights of children and young people are respected and improving experiences and outcomes for children who are experiencing extreme vulnerabilities, needs and risks in their lives." The Pathways and Standards set out what children and young people can expect before, during and after being in secure care. The Standards do not however provide legally enforceable rights for children and young people. The following standards are relevant to maintaining contact:

**Standard 25** – I am actively supported to be in touch with my family, friends and other people who are important to me unless this is not in my best interests. I have a say in how and when this happens.

**Standard 26** – My family, and people I care about, are encouraged and supported to stay connected with me and are treated with dignity, compassion and respect. There is a welcoming, friendly and comfortable environment for us to meet.

**Standard 27** – If my time with my family and others I care about is supported, supervised or restricted, this happens sensitively and I fully understand the reasons for this and these are recorded.

**Standard 28** – My rights to safely access digital

technology are upheld and actively supported. This encourages connection with people who are important to me.

The Secure Care Pathway and Standards Scotland <https://www.gov.scot/publications/secure-care-pathway-standards-scotland/>

### YOI / prison

'Rights' around contact with families for people in prison and YOIs The Prison and Young Offenders Institutions (Scotland) Rules 2011

<https://www.legislation.gov.uk/ssi/2011/331/contents/made>

Rules relating to prison visits can be found here:

<https://www.legislation.gov.uk/ssi/2011/331/part/8/chapter/2/made>

Rules relating to letters and telephone calls can be found here:

<https://www.legislation.gov.uk/ssi/2011/331/part/8/chapter/1/made>

## United Nations Convention on the Rights of the Child (UNCRC)

UNCRC full text:

<https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

UNCRC summary:

[https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC\\_summary-1\\_1.pdf](https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC_summary-1_1.pdf)

The UNCRC sets out the rights of all children and young people up to the age of 18.

Particular Articles of relevance are:

### Article 3 (best interests of the child)

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the

standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### Article 12 (respect for the views of the child)

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

### Article 16 (right to privacy)

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

### Article 20 (children unable to live with their family)

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

## United Nations Guidelines for the Alternative Care of Children

<https://resourcecentre.savethechildren.net/pdf/5416.pdf/>

The UN has also issued guidelines relating to enhance implementation of the UNCRC for children who are

deprived of parental care or who are at risk of being so. Guideline 17 relates specifically to siblings:

Siblings with existing bonds should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child. In any case, every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests.

## **European Convention on Human Rights (ECHR)**

[https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG)

The ECHR was incorporated into UK law by the Human Rights Act 1998 which makes it unlawful for public authorities to act in ways which are not compatible with ECHR rights.

### **Article 8 (right to respect for private and family life)**

1. everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

'Family life' can exist between siblings – this was discussed in the case of ABC v Principal Reporter

<https://www.supremecourt.uk/cases/docs/uksc-2019-0063-judgment.pdf>

# APPENDIX 2

## List of Organisations Contacted for Participant Recruitment

6VT Edinburgh City Youth Café	Kibble
Abertay University	Local Authorities (x8)
Action for Children	Loved Ones of Prisoners (LOOP)
Adoption and Fostering Alliance	MCR Pathways (x9 schools)
Aid & Abet	National Access Widening Participation Management Group
Association for Fostering, Kinship & Adoption Scotland (AFKAS)	National Leadership Network
Barnardo's	National Youth Justice Advisory Group
Care-Experienced, Estranged & Carers East Forum (CEECEF)	Newbattle Abbey College
CELCIS	Nurture Scotland
Champions Board	Open University
Children 1st	Parenting Across Scotland
Children and Young People's Centre for Justice (CYCJ)	Prison Visitor Centres (through co-ordinator)
Children's Health Scotland	Prison Visitor Centres (x3 directly)
Circle	Queen Margaret University
Clan Childlaw	Rossie
CrossReach	Scottish Government
Cyrenians	Scottish Prison Service
Dean & Cauvin Young People's Trust	Scottish Throughcare and Aftercare
Edinburgh College	SERCO
Edinburgh Napier University	Social Work Scotland
Edinburgh University	St Mary's Kenmure
Education Scotland	Stand Up For Siblings (network of 21 members)
Education Through Care Network	STARR
Families Outside	This is Us (Unite Foundation)
Family Rights Group / Lifelong Links	University of Glasgow
Fostering Network	University of Strathclyde
Good Shepherd Centre	University of the West of Scotland
Harmeny Education Trust	Venture Trust
Heriot Watt	Vox Liminis
Home-Start	West Lothian College
Howdenhall	Who Cares? Scotland
Includem	Why Not? Trust
	Youth Justice Voices / Youth Just Us / Inside Out

# STAYING CONNECTED PROJECT



Care-experienced children and  
young people with a sibling in  
prison or secure accommodation

Dr Kirsty Deacon

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