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06 October, 2023

Dear Convener,

In my June response to the Education, Children and Young People Committee's Stage 1 report, I committed to providing updated financial information to Parliament at the earliest opportunity. In doing so, the aim is to ensure that Parliament has the most relevant and current information available to consider as part of its scrutiny of the Children (Care and Justice) (Scotland) Bill. The information provided in the Financial Memorandum was accurate and complete at the time of preparation and publication. However, as I acknowledged during my Stage 1 evidence, new data is now available that is not distorted by pandemic impacts to the same degree, and matters outwith the Scottish Government's control, such as inflation, have moved on since autumn 2022. Further, additional evidence about the finances of care and justice services relevant to the Bill continued to come to light during Stage 1.

Therefore, please find updated information on the financial costs associated with the Bill's provisions at Annex A. The figures have been updated to include relevant data for 2022/23 which has become available since Stage 1. This data is of particular value and relevance given the impact that the pandemic had on the years 2020-2022. In addition, the costs to the children's hearings system have been revisited and amended following the evidence presented to the Committee, and receipt of additional information from delivery partners and stakeholders. I would like to express my gratitude to the Scottish Children's Reporter Administration (SCRA), Children's Hearings Scotland (CHS), Scottish Legal Aid Board (SLAB), secure care providers, Scottish Courts and Tribunals Service (SCTS), CoSLA, Social Work Scotland (SWS) and others for working with officials to generate and analyse additional information. Supplementing this with professional expertise and knowledge on-the-ground has been the Children (Care and Justice) Bill Implementation Group. Comprising

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over 20 stakeholders, the group's work is developing with momentum, having held meetings on 5 June, 1 August and 4 September - with the series due to continue alongside the Bill's Parliamentary passage.

Whilst some issues remain challenging to quantify – due to other decision-making processes not directed by the Bill or the case-by-case approach required to deal appropriately with individual children's needs and rights – the updated information contains a significant level of detail and assessment across the key provisions in the Bill. I understand that the committee intends to take more evidence on financial and resourcing matters ahead of Stage 2. I hope that the detail provided in the annex helps inform that scrutiny.

Yours sincerely,

**Natalie Don MSP**  
**Minister for Children, Young People and Keeping the Promise**

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## Children (Care and Justice) Bill: Updated Financial Information

### Introduction

1. This updated financial information is published to accompany the Children (Care and Justice) (Scotland) Bill, introduced in the Scottish Parliament on 13 December 2022.
2. This document has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum (FM) published to accompany the Bill as introduced.
3. The purpose of this document is to set out updated information regarding the costs of the Bill that has become available to the Scottish Government since the Bill was introduced in the Scottish Parliament on 13 December 2022.
4. In most instances, updates have been made due to an additional year of data now being available. Figures have also been updated to 2024-25 prices, as opposed to 2022-23 prices which were used in the Financial Memorandum, to reflect the expected commencement date of the Bill.

### Parts 1 and 2 of the Bill – Raising the age of referral to the principal reporter / criminal justice procedure

5. The Financial Memorandum (FM) set out that, for illustrative purposes, a demarcation of 17.5 years-old was a potential assumption to indicate when a child being considered on offence grounds would have less likelihood of a decision being made by the Procurator Fiscal to divert a case to the Principal Reporter following a joint referral. This was due to factors such as the time needed for a referral to the Reporter to progress, and for any resulting hearing being convened and meaningful services put in place. However, these matters are not directed by the Bill. Provisions align with the policy intent to allow all under-18s to have access to consideration of their case, and to be dealt with within the hearings system as appropriate. Therefore this document reflects that, with forecasts predicated on assumptions until the age of 18. This has led to an increase in the number of additional hearings being forecasted as a result of the Bill.
6. The Scottish Children's Reporter Administration (SCRA) have provided the Scottish Government with an updated range of additional referral and hearings estimates (based on experience *from the two years preceding the pandemic, 2018-19 and 2019-20, and the prior financial year 2022-23*). SCRA forecasts an additional 5,200 – 8,000 referrals of between 3,900 – 5,100 children as a result of extending the age of referral as proposed in the Bill. Referrals do not always lead to a hearing being convened. In terms of total additional hearings, SCRA forecast that the Bill will result in between 1,850 – 3,435 additional hearings per year. For the upper estimate, this is an additional increase of 1,020

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Hearings– an increase of 42% from the Financial Memorandum. This increase is partly due to extending the age range for all referrals up until the child's 18th birthday and including new data in the modelling.<sup>1</sup>

7. Following consultation, the Scottish Government have agreed to use the upper end of the additional hearings range (3,435) for calculations going forward.

## **Costs to the Scottish Administration**

### Costs to the Scottish Children's Reporter Administration

8. Based on the increased number of expected hearings, the Scottish Children's Reporter Administration (SCRA) have provided the Scottish Government with an updated forecast for the increased administrative, staff, premises and IT costs that SCRA will incur as a result of the Bill. These figures have then been updated to 2024/25 prices. This has increased total costs to SCRA from £2.4m (which used the previous hearings estimates and 2022-23 prices) to £2.84m.

### Costs to Children's Hearings Scotland

9. Based on the increased number of expected hearings, Children's Hearings Scotland (CHS) have provided revised figures for the costs that they will face as a result of the Bill. These figures have then been updated to 2024/25 prices. These have increased from £0.45m per year in the Financial Memorandum to £0.67m per year.

### Costs to Scottish Legal Aid Board

10. Based on the increased number of expected hearings the Scottish Legal Aid Board (SLAB) have provided revised figures for the costs that they will face as a result of the Bill. These have increased from £1.03m per year (which used the previous hearings estimates and 2022-23 prices) in the Financial Memorandum to £1.09m per year<sup>2</sup>. These additional costs reflect the costs of ensuring that children up to 18 cannot refuse their right to legal representation.

### Costs to Scottish Ministers

11. Maintaining the assumption of 10% uptake for advocacy support used in the Financial Memorandum, and using the upper estimate of the updated number of additional hearings (3,435), a cost of £162,656 per year for advocacy support is assumed in 2024-25 prices. This is an increase from the figure of £60,750 in the Financial Memorandum (which used the initial estimate of hearings numbers and 2022/23 prices).

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<sup>1</sup> The increase is due to SCRA including new data in the modelling (including 22/23 data, removing atypical data from the pandemic period to capture an accurate picture, which are based on an average (2018-19, 2019-20 and 2022-23) and extending the age range for all referrals up until the child's 18th birthday).

<sup>2</sup> These figures are in 2023-24 prices, rather than 2024-25 prices.

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12. Based on the upper estimate of additional hearings (3,435) at a 4.2% appointment rate, there is anticipated to be an increase in safeguarder allocations of around 145 per year. Therefore, costs for safeguarder appointments are anticipated to increase from between £45,000 - £90,000 (which was based on the initial estimate of hearings numbers and based on 2022/23 prices) in the Financial Memorandum to around £243,000 per year (in 2024-25 prices).
13. Movement Restriction Conditions (MRCs) - Given the low numbers of MRCs, as well as the case-by-case basis upon which the extent of individual wraparound provision of support is decided upon, it is complex to quantify definitive future projections. The Bill makes two distinct alterations 1) to alter the test for MRCs to reflect that injury to others may not be physical, but emotional or psychological and to enable an MRC to restrict a child approaching a specified person or place 2) to decouple the MRC criteria from that for secure accommodation to make explicit that the MRC is principally intended to operate as restriction, rather than a deprivation, of liberty. The latter means that it is therefore it is reasonable to deem that, when they are necessary under the future framework set out in the Bill, this is most likely to be in instances where it is a direct alternative to secure care (aligned with intention that MRCs are one tool in a range of options to deescalate matters to avoid deprivation of liberty). As such the most appropriate metric on which to base forecasts is the number of children on offence grounds who have had a secure authorisation. Using a three year average, there are 22<sup>3</sup> children on offence grounds with a secure authorisation per year. The average cost of electronic monitoring equipment is around £14,000. Assuming there are 22 children who may be subject to electronic monitoring, this would bring a total cost of around £0.32m per year (2024/25 prices).

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<sup>3</sup> In 2018-19 there were 33 children on offence grounds with a secure authorisation, in 2019-20, there were 20 and in 2022-23 there were 13. These years have been used to remove the effect of the pandemic. This is in line with the approach taken to forecast the number of additional hearings.

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Parts 1 and 2 of the Bill (diversion to children's hearing system from criminal justice system)			
Scottish Administration			
Falling on	Nature of costs	One off	Recurring from f/y 2024/25
SCRA	Increase in referrals to the Reporter	N/A	£2.84m
CHS	Increase in children's hearings	N/A	£0.67m
SLAB	Legal aid and assistance	N/A	£1.09m
SG	Advocacy	N/A	£0.16m
SG	Safeguarding	N/A	£0.24m
SG	MRCs	N/A	£0.32m
Net cost			
Scottish Administration	Above	N/A	£5.32m

### Costs to Local Government

14. Paragraphs 46 to 51 of the Financial Memorandum set out the expected number of hours of support required from social workers for the children's hearing system. This varies on a case-by-case basis and will be different in different areas.
15. In order to quantify a likely range of costs, the Scottish Government consulted Social Work Scotland (SWS) to estimate an amount of social work time required for any additional referrals and hearings. These time estimates have been updated to: work for initial inquiry (12.5 hours); work for initial hearing and substantive hearing (17 hours); work for continued hearing (10 hours); and work for review hearing (23.5 hours).

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16. Each additional referral would require at least an initial inquiry and would therefore generate an average of 12.5 hours of social work support. For those referrals that require hearings, it is estimated that all hearings will require the social work support of initial hearing and substantive hearing (so 17 hours social work support). And, due to lack of other available evidence, it is assumed that 50% of hearings will require social work support for continued hearings and review hearings (so the additional 33.5 hours).
17. Using the above estimates, the 5,200 to 8,000 additional referrals will require between 65,000 and 100,000 hours of social work support. Using the upper hearings estimate (of 3,435) an additional 58,395 hours of social work support will be required for initial and substantive hearings, and a further 57,536 hours of support will be required for continued and review hearings. Combining the support required for referrals and hearings, this is a total of 215,931 hours.
18. The average cost of employing a full time social worker is now estimated to be £57,631 per year (this includes salary plus employment on-costs). This equates to an estimated cost of £31 per hour (36 hours per week x 52 weeks). Combining the information above, the implied additional cost of social work support would be £6.69m per year in 2024-25 prices<sup>4</sup>.
19. Following discussion with partners, it is no longer assumed that savings from reductions in social work support in the criminal system can realistically be subtracted from these additional social work costs. Although some notional savings may accrue, these are not interlinked budgets where monies would transfer. Therefore, the total estimated cost for social work support will remain at £6.69m.
20. Movement Restriction Conditions – The estimated number of children who may be subject to a MRC is approximately 22 children per year. Costs of providing support for these MRCs would fall to local government. The amount of support needed for an MRC varies on a case by case basis, however if a local authority chooses to purchase support for MRCs from external organisations (which tends to be an intensive support option which is unlikely to be needed in many cases), this costs around £1,000 per week. Assuming each MRC last for an average of 3 months (13 weeks), this would be a total cost of around £13,000 per MRC – or a total of £0.29m (in 2024/25 prices) for the 22 children on MRCs. Given the bespoke considerations for any given MRC, and that this criteria is different from a secure authorisation on offence ground, this is likely to represent high end costs. Following Royal Assent of any Act of Parliament, the training and instruction for decision makers around MRCs will be considered in line with policy intent. The Scottish Government also plans to monitor MRCs under any new statutory framework in line with policy intent moving forward.

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<sup>4</sup> The average annual cost of employing a social worker (£57,631) is an estimate of costs in 2023-24. In order to express the total costs in 2024-25 prices, these have been uprated by the OBR projections of CPI – in-keeping with approach used throughout this document. The actual costs of employing a social worker in 2024-25 will depend on the staff pay uplift agreed for 2024-25.

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Parts 1 and 2 of the Bill (diversion to children’s hearing system from criminal justice system)			
Local Government			
Falling on	Nature of costs	One off	Recurring from f/y 2024/25
Local Authorities	Social work support for increase in referrals/hearings	N/A	£6.69m
Local Authorities	MRCs	N/A	£0.29m

## **COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES**

### CHILDREN IN POLICE CUSTODY

21. Paragraph 65 of the Financial Memorandum sets out Section 11 which makes provision around police custody and extends functions in a range of areas to ensure they apply to all those under 18, which they already do for children under 16 or subject to measures through the children’s hearings system. This includes notifications to parents and local authority social work that a child is in custody and helping ensure a solicitor is present during police interviews. The Scottish Legal Aid Board and Police Scotland do not hold information for the number of 16-17 year olds who waive a solicitor.
22. However, the Scottish Legal Aid Board provided 499 16/17 year olds with legal aid/assistance with regards to police station detention in 2022-23. The Scottish Legal Aid Board have also provided an estimated average cost for solicitors that do attend an interview with a person in custody - which is £276 per interview attended.
23. Using Scottish Police Authority (SPA) statistics for Financial year 2022-23 provided by Police Scotland, it can be supposed that the bulk of those interviewed would have come from the 565 held to appear before court but potentially they could have come from any of the 2,451 16/17 year old cohort detained in a police station.
24. If it is assumed a maximum cost case scenario where all 16 and 17 year olds who were detained in a police station and not provided legal aid/assistance by SLAB were interviewed without a solicitor present (i.e. the 2,451 total minus the 499 supported by SLAB), then the cost of providing a solicitor for these interviews would cost approximately £564,000 per year (uprated to 2024-25 prices).

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## Parts 2 and 3 of the Bill – children deprived of liberty – ending under-18s in young offenders institutions / secure accommodation

### Costs to the Scottish Administration

25. The Financial Memorandum included costs in relation to the number of children under 18 currently in young offenders' institutions (YOIs) having been sentenced and detained, because the Scottish Government meet these costs.
26. Advice from statisticians is that the figures for children in YOIs should be taken from the Scottish Prison Population Official Statistics publication<sup>5</sup>. The most recent Scottish Prison Population publication covers figures for 2021-22. These show that there were 14 under 18s in YOIs, of which 3 were sentenced and 11 were on remand. Updated figures for the cost of a secure care placement show that the average weekly cost is around £7000 – or £364,000 per year per placement.
27. In keeping with the approach used in the FM, Scottish Government would fund those places for children who had been sentenced. This would be a total cost of £1.1m per year (in 2024-25 prices).
28. The approach in the FM reflected current practices where local authorities are responsible for funding places in secure accommodation for children on remand. This totals £4.03m per year (in 2024-25 prices). However, following commencement of any Act of Parliament ending statutory routes to YOI, such costs would be met by central government.
29. Using the updated population and cost figures, this brings a total cost from £5.4m to £5.1m.

### Overall Bill

Costs borne by	Amount (p/a) as in FM	Amount (p/a) after additional information
Scottish Government	£5.38 m	£11m
Local Government	£6.56 m	£6.97 m
<b>Total</b>	<b>£11.94 m</b>	<b>£17.98 m<sup>6</sup></b>

### Addendum

30. The Bill interacts and intersects with a range of other public service delivery and wider policy and change programmes. As such, there can be a significant number of

<sup>5</sup> [Scottish Prison Population Statistics 2021-22](#)

<sup>6</sup> Figures do not sum due to rounding

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variables which make the resource and cost implications challenging to isolate and precisely forecast. This was discussed during Stage 1 scrutiny.

31. The Bill's provisions will be in place to support individual children, whose support and supervision needs will vary considerably. The response required to safeguard each child's welfare will fall to be considered on a case-by-case basis, and therefore will differ in terms of applicable case-specific costings.
32. To assist Parliamentary scrutiny some the government presents additional information on considerations.

### Looked after children status and aftercare

33. Part 2 of the Bill also affords looked after children status to all children who are sentenced or remanded to secure accommodation (if they do not already have such status). These children may choose to take up an offer of aftercare support. These provisions further highlight existing duties on local authorities in respect of looked after children on leaving care. This provision in the Bill therefore does not attract new costs but recognises the need to prevent a cliff edge for children who are no longer supported under a compulsory order but who may still require ongoing support beyond age 18. The services needed for any young person post-18 will reflect their own particular needs, and their willingness to accept support, and the numbers that would fall to be affected are unquantifiable and the costs would in any event be individual.
34. However, to illustrate the potential cost of providing aftercare to those children leaving secure accommodation, it is understood that in 2019 two fifths of young people (40%) in Young Offenders Institutions reported having been in care as a child<sup>7</sup>. Those young people would therefore have looked after status (it should be noted that these statistics are based on self-reported numbers and include young people up to age 21). Therefore, of the 14 children under 18 in YOIs in 2021-22 we can expect that around 6 of them would have been newly afforded looked after status as a result of these changes, if they were in effect at that time. Figures provided by Social Work Scotland estimate that it would cost around £200,000 per year for a team of social workers to support around 30 children per year. These costs would vary significantly depending on the intensity of the support needed by any individual. However, given the small number of children that this is expected to impact it could be anticipated that the costs of additional aftercare support may be absorbed into existing aftercare services. This particular consideration requires continued dialogue with partners to determine the distribution of future costs.
35. Current trends in SPS data may potentially signal a longer-term decline in numbers of under-18s in YOI since the Scottish Prison Population official statistics were last published in 2021-22 (the source for the figure of 14 used). Figures for the Scottish

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<sup>7</sup> [Young People in Custody 2019 - Final7200\\_3446.pdf](#)

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Prison Population official statistics (2022-23) will not be verified and published until later this year.

### Training costs

36. It is expected that some social workers will need to undertake some additional training in order to meet the needs of greater numbers of older children in the children's hearings system. The Scottish Government is in discussion with statutory partners about the timing and scale of training that would be required, and how best this would be delivered – most likely in 2024-25 and the succeeding years. For that reason, total training costs are not reflected in the total costs to local government in Annex A. However, solely for illustrative purposes at this stage we can provide some examples. One example would be Care and Risk Management (CARM) Training, which SWS have indicated to us may cost around £395 per social worker. It is estimated that external training (on issues such as drug and alcohol support, trauma support etc) cost between £300 and £500 per day. There were a total of 5810 children's fieldwork social workers in Scotland in 2022. If every one of these children's social workers received CARM training and one day of additional external training, this would cost a total of £4.6m. This cost is indicative at this stage as considerations are still being made around what training is required and how this could be sourced on a cost-effective basis. Furthermore, without having carried out a full gap analysis of the training needs of social workers across the sector it is challenging to determine costs at this stage. The Scottish Government will continue to review this.

### Secure Care

37. The Committee expressed real interest in the Reimagining Secure Care project during Stage 1. Activity on that front continues as planned. The Scottish Government is committed to ending the placement of children in young offenders institutions and has been discussing the immediate needs of secure care providers to carry out adaptations to fulfil that early requirement. That precedes the longer-term reimagining and potential reconfiguration work. We await with interest the findings of this project to ensure secure care meets the future needs of those small number of children who require it. There are likely to be some costs to the secure estate in the future to respond to the complex needs of children in their care, including in relation to the development of additional vocational training opportunities for 16 and 17 year olds or contingency provision to ensure that all children who require secure care can always access the service. However, some of these costs are not linked to the provisions of the Bill itself and are costs which secure accommodation providers would have incurred regardless of the provisions. As a consequence, those costs are therefore not included in the updated financial information.

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## Persons harmed by a child's behaviour

38. Beyond the current provisions of the Bill regarding providing information to victims, the Scottish Government is actively working with victim support organisations to explore options on how best to provide additional support to those affected by the actions of children, particularly in respect of child victims and their families. This would include providing more contextualised information and advice and directing them to support provided by agencies who are best placed to help them in a more trauma-informed and systematic fashion way. The lessons from the pathfinder phases of Bairns Hoose will also inform future thinking in this area. While we do not consider that new statutory provision is required, we hope to provide more information on that activity during Stage 2.
39. I understand the Committee may wish to take further evidence on the financial information in advance of stage 2. I hope this correspondence offers some context about the scope of the updated information, explanation as to why some wider contextual financial information is not reproduced in the new document, provides reassurance that the Scottish Government aims to capture the costs as fully and as accurately as possible based on best estimates of the direct implications of the Bill in practice.

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