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02 May 2024

**Age of Criminal Responsibility (Scotland) Act 2019 – Section 28 – to take a child under 12 to a place of safety.**

Dear colleagues,

I am writing to inform the committee of the use of the powers within Section 28 of the Age of Criminal Responsibility Scotland (2019) Act, to take a child under 12 to a place of safety.

The Age of Criminal Responsibility (Scotland) Act 2019 was passed unanimously by the Scottish Parliament on 7 May 2019 and received Royal Assent on 11 June 2019. The Act commenced in phases and was fully commenced on 17 December 2021 meaning children under the age of 12 could no longer be charged or arrested.

Part 4 of the Act contains a bespoke package of police investigatory and other powers. These are capable of use only when the behaviour of a child has been exceptionally harmful. Included in this package of powers is a power to take a child to a place of safety under section 28 (“the section 28 power”).

The Act requires Scottish Ministers to report to Parliament on the use of the section 28 power. The first report was laid in Parliament in May 2023 reporting on the powers since the Act came fully into force. The expectation is that a report will be required on the use of the power on a yearly basis.

I have attached a report in this letter providing details of the use of the section 28 power from 17 December 2022 to 16 December 2023. During this timeframe the powers within the Act have been used on one occasion. This power was used in March 2023. Further detail can be found in the Annex.

The Report will be laid in the Scottish Parliament on 02/05/2024

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If you have any questions about this Report, do not hesitate to get in touch.

Yours sincerely

Natalie Don

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## **Age of Criminal Responsibility (Scotland) Act 2019 – Yearly report on the use of Section 28 - to take a child under 12 to a place of safety**

The Age of Criminal Responsibility (Scotland) Act 2019 (“the Act”) increases the age at which a child is considered to have the capacity to commit a crime from age 8 to 12. This means that children younger than 12 cannot accrue convictions or criminal records. Part 4 of the Act contains a bespoke package of police investigatory and other powers. These are capable of use only when the behaviour of a child has been exceptionally harmful. Included in this package of powers is a power to take a child to a place of safety under section 28.

This report provides details of the use of the section 28 power from 17 December 2021 to 16 December 2023.

### The number of times the power was used during each month of the reporting period

Section 28 of the Age of Criminal Responsibility (Scotland) Act 2019 to take a child under 12 to a place of safety has been used **once** in the time period from 17 December 2022 to 16 December 2023.

The instance where the section 28 power was used was in March 2023.

### The nature of the behaviour or likely behaviour which was considered to be causing or risk causing significant harm to another person

The power was initiated due to violent, dangerous and significant harmful behaviour.

### The length of time for which the child was kept at each place of safety used

The use of the section 28 power, saw the child in a suitable room at a police station for 5 hours before being moved to a local authority established place of safety as a second place of safety as this was a more suitable location. The child was at the second place of safety for 11 hours and 15 minutes.

### The number of times during the reporting period each type of place of safety listed in section 28(11) of the Act was used

A suitable room at a Police Station was used on this occasion followed by a local authority establishment residential unit.

### Each occasion on which the power was used to keep a child in a place of safety which was a police station, the reasons why it was not considered reasonably practicable to keep the child in a place of safety other than a police station

On this occasion a suitable room at a police station was used as the first place of safety due to there not being a more practicable alternative available at the time. An alternative place of safety was arranged as quickly and as safely as possible.

Each occasion on which the power was used to keep a child in a cell within a police station, the length of time for which the child was so kept.

There were no occasions during the reporting period that a police cell was used as a place of safety.