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Equalities, Human Rights and Civil Justice
Committee
By Email: ehrcj.committee@parliament.scot

Convener
Education, Children and Young People
Committee
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25 March 2025

Dear Convener

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

I am writing to report to Committee on 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 ('the Act') was passed by the Scottish Parliament on 7 May 2019 .

The Act's provisions were commenced in phases, and it was fully commenced on 17 December 2021 – raising the age of criminal responsibility in Scotland from 8 to 12 and introducing a range of accompanying safeguards..

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. Since the Act came fully into force, two previous reports have been laid in Parliament on the use of the section 28 powers.

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I have attached a report to this letter providing details of the use of the section 28 power from 17 December 2023 to 16 December 2024. During this timeframe, the powers have been used on two occasions. The section 28 power was used in February 2024 and November 2024. Further detail can be found in the Annex.

The Report will be laid in the Scottish Parliament on 27 March 2025.

Yours sincerely,

Natalie Don-Innes MSP
Minister for Children, Young People and The Promise

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Report to Parliament on the section 28 power

Age of Criminal Responsibility (Scotland) Act 2019 – 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 2023 to 16 December 2024.

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 **twice** in the time period from 17 December 2023 to 16 December 2024.

The instances where the section 28 power was used was in February 2024 and November 2024.

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 on **both occasions** due to violent, dangerous and significant harmful behaviour.

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

In February 2024, the use of the section 28 power, saw the child at their home address for 00:26 minutes as this was the most suitable location. No further place of safety was required.

In November 2024, the use of the section 28 power saw the child at other dwelling house for 21:45 hours as there was no practicable alternative available. No further place of safety was required.

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

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For the use of the power in February 2024, a home address was used as the most suitable location. In November 2024, an other dwelling house ¹was used due to no practicable alternative available.

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

There were no occasions during this reporting period where a police station was used as a place of safety.

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.

¹ **Other dwelling house** is a type of place of safety of a suitable person who is so willing (i.e. person within family network, foster carer, childminder or family friend). Full details are in the statutory guidance: [2. Responsibilities and Procedures - Age of Criminal Responsibility \(Scotland\) Act 2019 - part 4 – Police Investigatory and Other Powers: statutory guidance on the use of a place of safety - gov.scot](#)

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