

CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Supplementary Financial Memorandum is published to accompany the Children and Young People (Scotland) Bill (introduced in the Scottish Parliament on 17 April 2013) as amended at Stage 2.

2. This Memorandum 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 Financial Memorandum on the Bill as introduced.

3. This Supplementary Financial Memorandum includes the financial impact of Stage 2 amendments. The majority of the amendments do not significantly affect the assumptions in the original Financial Memorandum. This document, therefore, only addresses those Stage 2 amendments with anticipated or apparently potential cost implications.

4. The new costs in the Supplementary Financial Memorandum have resulted in revised total costs for the Bill as a whole and for the different categories of body bearing the costs, and these are set out in the tables below. As with the original Financial Memorandum, the period covered by the supplementary Financial Memorandum is up to 2019-20.

Table 1: Summary of costs (£)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Scottish Administration	144,000	171,500	127,000	139,000	32,500	0
Local Authorities	93,315,541	151,782,321	184,439,396	156,366,041	167,503,391	169,681,700
NHS	300,000	1,088,949	16,315,681	13,056,680	11,414,442	10,803,505
Other Organisations*	0	199,230	746,597	162,109	236,349	162,109
Total	93,759,541	153,242,000	201,628,674	169,723,830	179,186,682	180,647,314

*The figure for 2015-16 for 'Other Organisations' has been changed to reflect a mistake of transposition in Table 2 of the original Financial Memorandum. The total figure for 2015-16 should be £199,230 rather than £202,280, in line with Table 5 below.

Table 2: Costs on the Scottish Administration (£)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Children's Rights	25,000	32,500	0	0	32,500	0
GIRFEC	0	0	0	0	0	0
Early Learning/ Childcare	0	0	0	0	0	0
Looked After Children	0	0	0	0	0	0
Other Proposals	119,000	139,000	127,000	139,000	0	0
Total	144,000	171,500	127,000	139,000	32,500	0

Table 3: Costs on local authorities (£)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Children's Rights	0	0	0	0	0	0
GIRFEC	0	398,097	9,764,210	0	0	0
Early Learning/ Childcare	93,315,541	144,912,709	166,432,619	144,881,742	155,875,740	156,495,887
Looked After Children	0	6,471,515	8,242,567	11,484,299	11,627,651	13,185,813
Other Proposals	0	0	0	0	0	0
Total	93,315,541	151,782,321	184,439,396	156,366,041	167,503,391	169,681,700

Table 4: Costs on the NHS (£)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Children's Rights	0	0	0	0	0	0
GIRFEC	300,000	1,088,949	16,315,681	13,056,680	11,414,442	10,803,505
Early Learning/ Childcare	0	0	0	0	0	0
Looked After Children	0	0	0	0	0	0
Other Proposals	0	0	0	0	0	0
Total	300,000	1,088,949	16,315,681	13,056,680	11,414,442	10,803,505

Table 5: Costs on other bodies, individuals and businesses (£)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Children's Rights	0	83,190	162,109	162,109	162,109	162,109
GIRFEC	0	41,800	584,488	0	0	0
Early Learning/ Childcare	0	0	0	0	0	0
Looked After Children	0	74,240	0	0	74,240	0
Other Proposals	0	0	0	0	0	0
Total	0	199,230	746,597	162,109	236,349	162,109

NAMED PERSON

5. The duties relating to the named person are being placed on local authorities, health boards and the bodies which run independent and grant-aided schools. However, following an amendment at Stage 2, section 21(6) now places a duty on Scottish Ministers to make arrangements for the provision of a named person service for children held in legal custody or subject to temporary release from custody. In practice, this will be achieved via the Scottish Prison Service, and there is anticipated to be minimal associated costs. The provision will be required for a very small number of children each year and the role essentially formalises some of the good practice which the Scottish Prison Service has already developed for children and young people in custody. Scottish Prison Service managers have been fully engaged in the process of identifying their role in these circumstances, and they are content that any additional costs can be met within existing budgets.

EARLY LEARNING AND CHILDCARE

6. While the power in section 43(2)(c)(ii) of the Bill to extend eligibility has not been amended, the stated intentions of how the power will be used have changed since the original Financial Memorandum. Local authorities will be required to provide 600 hours of early learning and childcare to any 2-year old who is defined as living in a workless household from August 2014, with further extension to all 2-year olds who qualify for free school meals under the current passported benefits eligibility criteria from August 2015. This equates to around an additional 8,400 2-year olds from August 2014, rising to approximately 15,400 from August 2015.

7. The main costs of these Bill provisions are for expanding the availability of 600 hours of early learning and childcare to additional 2-year old children, specifically:

- staff costs;
- operational costs;
- support service costs;
- partner provider uprating; and

- special education/additional support costs.

8. The costs will fall wholly on local authorities. These have been estimated by applying a similar methodology to that used in the original Financial Memorandum, for 2-, 3- and 4-year olds, along with the estimated costs of delivering new models. Provision costs to these 2-year olds are different from previous costs, allowing some adjustment to reflect a degree of flexibility to provide more individualised approaches, given the needs of these vulnerable children. The costs are different from what would be offered to a “universal” 2-year old not deemed “vulnerable”.

Table 6: Summary of additional costs for early learning and childcare

	Total cost (£)
2014-15	14,532,559
2015-16	44,016,733
2016-17	58,367,643
2017-18	58,985,766
2018-19	59,679,764
2019-20	60,299,911

9. Estimated costs are based on:

- terms 1 and 2 of the academic year 2014-15 covering the period August 2014 to April 2015;
- costs in 2015-16 include continuity of offer for those children whose entitlement began in 2014-15, delivery of Term 3 to that cohort of children, and the increase in eligibility from August 2015;
- 2016-17 costs reflect the full 12-month provision to the widened group of 2-year olds;
- cost totals in 2017-18 take forward the cost estimate for the year before and apply growth from the population projection. Thus, the cost in 2017-18 is 1% higher than in 2016-17; and
- the revenue costs include staff costs (provided by COSLA and adjusted for higher staff:child ratios for 2-year olds), operational costs, support service costs, additional support needs costs and the partner provider uprating for inflation.

10. The main costs arising from these provisions will be staff costs associated with the additional staff required to deliver the expansion in eligibility, based on higher staff:child ratios for 2-year olds (1:5). The additional staff costs associated with a range of patterns of delivery have been estimated on the basis of previous work with COSLA. Additional operational and support costs have been added to those staff costs, based on variable marginal costs as set out in the original Financial Memorandum. Recruitment for additional staff and extensions or renegotiations of current staff contracts will also be required.

11. Early learning and childcare will continue to include those children with additional support needs, and this has been factored into the estimated revenue costs. They have been

calculated on a pro-rata basis from the existing additional support for learning needs published expenditure, as set out in the original Financial Memorandum. Special education apportionment is estimated at 3.3% of the special school population and 3.3% of the special education budget. 90% of this is estimated as a variable cost.

12. Broadly, local authorities secure around 40% of provision through independent, private and third sector partners; it is anticipated that local authorities will continue to use those sectors to provide capacity for this expansion. It is also envisaged that a continued mix of early years staff and skills will be paramount to ensure quality of expanded provision.

13. Capital costs have not been explicitly estimated. It is not possible to provide an accurate estimate of the level of infrastructure investment required at this stage. Further work will be required to explore the need for any additional capital funding.

14. It should be noted that any future changes to eligibility under section 43(2)(c)(ii) would have cost implications, which cannot be anticipated or estimated at this stage.

15. Lastly, it is not anticipated that the new duties in section 6 – to consult and plan in relation to pre-school children and school aged children in need and not in need, alongside duties to consult on provision of mandatory hours of early learning and childcare – will incur additional costs. Consultation with communities is already embedded and widespread good practice within local authorities, and there will be no requirement on local authorities to make additional provision available.

AFTERCARE/CONTINUING CARE

Changing the age of leaving care

16. Amendments agreed by the Education and Culture Committee change the “age at leaving care” eligibility criteria for aftercare support from “beyond school minimum leaving age” to “age 16”. This will result each year in a number of additional 16-year olds being eligible for aftercare services that would otherwise not have been eligible. The costs will fall wholly on local authorities.

17. On average, over the last 4 years there were 901 children each year ceasing to be looked after at age 16. In 2012 around 54% were eligible for aftercare support; of these, 60% were in receipt of aftercare services. If the “age at leaving care” criteria was changed to 16, then it can be assumed that all care-leavers aged 16 would be eligible – i.e. roughly 901 16-year olds each year.

18. If it is assumed that similar proportions to those currently eligible will claim aftercare services (around 60%), it might be expected that around 540 of these 901 care-leavers will potentially claim. Given that over the last 3 years an average of 312 16-year olds have received aftercare each year, the legislation could be expected to give rise to an additional 228 claims (i.e. 540 less the 312 who would claim under the current eligibility criteria).

19. If it is further assumed that they also draw on aftercare services for an average duration of 3 years, consistent with the assumptions in the original Financial Memorandum, then by year 3

there will be an additional population of 684 (i.e. 228 multiplied by 3) 16-year old care-leavers eligible for support in the first, second and third years of aftercare support. Costs in years 1 and 2 are lower because there are fewer cohorts of newly qualifying 16-year olds; by year 3 there are three cohorts of new care-leavers in years 1, 2 and 3.

20. This is set out in Table 7, which also sets out the gross costs of the proposal. With an estimated aftercare cost of £3,142 per year per young person (as set out in the original Financial Memorandum), the total additional cost of the proposal would be approximately £2.1 million from year 3 onwards. It should be noted that some of those eligible for aftercare may choose continuing care. This option is included in section below on costing continuing care. This generates the aftercare avoided costs over the period when the young person chooses the continuing care option and is set out in Table 12.

Table 7: Number of additional care-leavers eligible for aftercare support and annual cost (rolling from 2019-20 onward)

	Age			Total population	Total cost (£)
	16	17	18		
2015-16	228			228	716,376
2016-17	228	228		456	1,432,752
2017-18	228	228	228	684	2,149,128
2018-19	228	228	228	684	2,149,128

Continuing care

21. Amendments have been added that will enable 16-year old care-leavers eligible for aftercare support whose final placement was not at home to choose to stay in their care placement (“continuing care”) until a higher age which may be specified by order. The Scottish Government has set out its policy intention of setting this age at 21; consequently, costs have been calculated on this basis. Any future changes to eligibility will have cost implications, which cannot be anticipated or estimated at this stage. The anticipated costs will fall wholly on local authorities.

22. The estimates are based on the expected number of those eligible who will take up this provision from the cohort of 16-year olds who will be eligible for aftercare support, (around 901 16-year olds each year¹). Of these care-leavers, it is estimated that around 45% (405) will have a final care placement of ‘looked after at home’ and they are, therefore, not deemed eligible for continuing care. This leaves 496 16-year old care-leavers who would be eligible for either aftercare or the option of continuing care. Currently, of all those eligible for aftercare support, around 60% are actually in receipt.²

- it is assumed that around 60% of those eligible will claim (298);
- of those who claim it is anticipated 75% are expected to choose aftercare (224);

¹ CLAS average number of 16-year olds ceasing to be looked after over last 4 years to 2011-12.

² CLAS average proportion in receipt of aftercare over last 3 years to 2011-12.

- this leaves 25% (74 young persons) choosing the option of continuing care. This figure is an estimate based partly on the evaluation of the *Costing the When I am Ready Scheme* report, which evaluated a similar pilot programme in Wales (published in November 2013). It is assumed that in each subsequent year, a decreasing number of the young persons will choose continuing care as they reach older ages; this accords with current trends, wherein decreasing numbers remain in care through until 21 years of age;
- it is also assumed that once the 16-year olds leave care, they do not have the right to return;
- these numbers are annual flows, in the sense that in year 2 of the policy, a further 74 16-year old potential care-leavers will choose to the continuing care option and may do so up to and including age 21;
- this dynamic is modelled in Table 9 below for each annual cohort, taking account of the tailing off in numbers remaining in care;
- the offer of continuing care is only extended to potential care-leavers aged 16 and not aged 17 and over; and
- by 2019-20, there will be roughly an additional 164 young persons in care between the ages of 16 and 21 inclusive.

23. The unit and total costs and savings associated with this proposal are set out in Tables 10-13 below. Table 13 identifies the net total costs each year from 2016-17 to 2019-20. They are lowest in year 1 of implementation at £4.2 million, rising to £9.3 million by 2019-20 at which point they stabilise along with the additional numbers of children in care.

24. The costs of remaining in care depend upon the type of care placement from which the young person is considering leaving. A breakdown of the split applied to those staying in care is set out in Table 8, drawing on data from CLAS statistics 2011-12, identifying the final care placement type for care-leavers over minimum school-leaving age. The proportions are adjusted to remove care-leavers who were at home and in secure care and/or crisis accommodation.

25. For all those young persons who choose continuing care, avoided costs arise in the form of the foregone aftercare service costs. These were estimated to be approximately £3,142 per annum per young person in the original Financial Memorandum and the same figure is applied in the current modelling. Table 12 sets out the total avoided costs for each cohort for each subsequent year in care; the profile declines as the numbers who continue to stay in care reduces year on year. Each new cohort starting at the age of 16 will have this profile of saving and cost through until age 21.

Table 8: Number of young people ceasing to be looked after who were beyond minimum school-leaving age by final placement type (2011-12)

With friends/relatives	177
With foster carers provided by local authority	151
With foster carers purchased by local authority	53
In other community	47
In local authority home	138
In voluntary home	25
In residential school	71
Total	662
<i>Kinship</i>	34%
<i>Foster</i>	31%
<i>Residential</i>	35%

Table 9: Dynamic cohorts of 16-year olds choosing continuing care

	2016-17 Year 1	2017-18 Year 2	2018-19 Year 3	2019-20 Year 4
Cohort 1	74	45	30	15
Cohort 2	0	74	45	30
Cohort 3	0	0	74	45
Cohort 4	0	0	0	74
All cohorts	74	119	149	164

Table 10: Cost split across types of care, unit costs and total cohort cost for each subsequent year in care

	% split ¹	Unit cost estimate ²	2016-17		2017-18		2018-19		2019-20	
Kinship	34%	£7,800	25	£196,362	15	£117,817	10	£78,545	5	£39,272
Foster	31%	£18,200	23	£417,269	14	£250,362	9	£166,908	5	£83,454
Residential	35%	£145,600	26	£3,829,060	16	£2,297,436	11	£1,531,624	5	£765,812
Total cost	100%		74	£4,442,691	45	£2,665,615	30	£1,777,077	15	£888,538

¹ by last care placement.

² The numbers in each cohort have been rounded in some places, but the unrounded numbers have been used to calculate the full total cost.

Table 11: Gross annual costs of continuing care for all cohorts (£)

	2016-17	2017-18	2018-19	2019-20
Cohort 1	4,442,691	2,665,615	1,777,077	888,538
Cohort 2		4,442,691	2,665,615	1,777,077
Cohort 3			4,442,691	2,665,615
Cohort 4				4,442,691
Total cost	4,442,691	7,108,306	8,885,383	9,773,921

Table 12: Annual avoided costs on aftercare for all cohorts (£)

	2016-17	2017-18	2018-19	2019-20
Cohort 1	233,765	140,259	93,506	46,753
Cohort 2		233,765	140,259	93,506
Cohort 3			233,765	140,259
Cohort 4				233,765
Total avoided costs	233,765	374,024	467,530	514,283

Table 13: Net annual costs of staying in care for all cohorts (£)

2016-17	2017-18	2018-19	2019-20
4,208,927	6,734,283	8,417,853	9,259,639

COUNSELLING SERVICES

26. As an amendment to Part 9 of the Bill, a pregnant woman who a local authority considers will give birth to a child who is at risk of becoming looked after, and their families or the people with whom they are living, are also eligible for the services to be provided under Part 9. Unborn children can already be placed on the child protection register, and in 2011-12 95 were placed on it, which is a strong indication that they were at risk of becoming looked after. Of those 95 there will be a proportion whose families are already eligible for support under Part 9 by virtue of other children in the family. There will also be some unborn children about whom the local authority has concerns but for whatever reason has chosen not to place them on the child protection register. Extending eligibility to this group is particularly worthwhile because they are easily identifiable and the cost savings to the wider public sector of such early intervention and support are likely to be maximised as the child is not yet born.

27. Because the numbers related to this expansion are very small in relation to the much larger numbers modelled in the original Financial Memorandum (see paragraphs 133-142), which in themselves contain a margin of error at least as big as this expansion, the view is that this amendment can be absorbed within the original estimates of costs and savings.

28. In terms of other changes made at Stage 2, minor changes to the eligibility for support and the re-titling are considered of negligible impact on the overall costing assumptions. In practice, support would be available to the family around a child, not just the parents and persons with parental rights and responsibilities in relation to, an eligible child. Consequently, the modelling set out in the original Financial Memorandum was done on that basis. Amendments to this provision of Part 9 clarify the different categories of person who can receive support. ‘Counselling services’ was a term intended to cover a wide variety of services that could be available. The change to the term ‘relevant services’ and the re-titling of the provision does not represent a change in the anticipated range of support available, or the associated costs. Similarly, the eligibility test is now on the face of the Bill, as opposed to being defined separately; this test was always intended to be put in place in practice and was used as the basis for the original financial modelling.

29. Any future changes to eligibility would have cost implications, but as there are no policy intentions of doing so at this stage, they cannot be anticipated or estimated.

KINSHIP CARE ORDER

30. In the introductory draft of the Bill, guardians, along with parents, were excluded from kinship care assistance. However, a guardian can be in a very similar position to a kinship carer and the child or children they care for may be at risk of becoming looked after. In order to ensure that guardians, and the children for whom they care, are not at a disadvantage, they are now to be eligible for kinship care assistance. Amendments to sections 64 and 65 mean that guardians are now to be deemed to have the same eligibility for a kinship care order.

31. Guardians are appointed in 2 ways – under section 7 of the Children (Scotland) Act 1995 (“the 1995 Act”) or under section 11(2)(h) of that Act. Under section 7, an appointment of a guardian is a private matter between individuals with no court process – this is where a guardian is appointed through a will or similar. It is not possible to know how many people become guardians through this route each year. However, it is assumed that, where this happens, a parent is also likely to have made financial provision for the child and/or the chosen guardian, who has had to agree to be a guardian, is likely to have the means to support the child without recourse to the state. There will be situations where this is not the case, but it is considered that this will be absorbed within the estimated 1.5-3.5% of informal carers who have already been estimated may apply for a kinship care order per annum (see paragraph 125 of the original Financial Memorandum) and it is not proposed to model this group further.

32. Where a guardian is appointed under section 11(2)(h) of the 1995 Act, this goes through the civil courts. There are statistics for orders pursued under section 11(2) (orders relating to parental rights and responsibilities), but these are not broken down sufficiently to show the exact number of orders under section 11(2)(h). Contact orders and residence orders are the main categories of orders under section 11(2) and are recorded individually. The remainder, covering 6 other potential types of order, are grouped together as ‘other’. There were 583 of these ‘other’ orders in 2011-12. There are few section 11(2)(h) orders and, therefore, a figure of 60 per year can be assumed (roughly 1/10 of the ‘other’ total). This is a relatively stable number, as the 1995 Act and the Bill do not provide any particular incentive to take out guardianship and the flexible nature of section 11 orders means many people seeking guardianship would in practice seek a different order – so are included in the existing modelling. This measure, therefore, to some extent closes a perceived loophole in support for a small residual group who face unexpected difficulties when taking in a child following the death of the birth parent(s).

33. The calculation of gross costs and avoided costs for this group follows the same methodology as for informal kinship carers in the kinship care order section in the original Financial Memorandum. The differences are that it is assumed that:

- guardians will not require transport costs to facilitate contact, as guardianship is generally where there is no parental involvement; and
- only 33% avoid care, which is a lower figure than assumed for informal kinship carers but reflects the view that people who pursue guardianship generally do so because they already have the means and/or the child is unlikely otherwise to be at risk of becoming looked after.

34. The assessment of the costs of including this group within the kinship care order are, therefore, as follows. The costs will fall wholly on local authorities.

Table 14: Individual kinship care costs for guardians

Description of service	% eligible	Number in receipt*	Unit cost (£)	Total cost (£)
Start-up grant	50%	30	500	15,000
Parenting capacity assessment	100%	60	1,500	90,000
Petition support	66%	40	1,500	59,400
Information	100%	60	180	10,800
Annual total cost				175,200

*These numbers have been rounded in some places, but the unrounded numbers have been used to calculate the full total cost.

Table 15: Total avoided costs for kinship care for guardians

Avoided cost of care	£5,331
Avoided cost of social work time	£3,667
Annual avoided cost per young person (saving)	£8,998
Applied to % of kinship care (guardian) order	33%
Annual total avoided costs	£178,161

35. In response to concerns about a perceived lack of detail in this Part of the Bill, Scottish Ministers agreed to make amendments at Stage 2 to provide for a clear, core eligibility test for kinship care assistance on the face of the Bill (whether or not a child was in danger of becoming looked after). However, this test was the same as was used in the underlying financial modelling and, therefore, the amendments result in no changes to the overall financial impact. Although there is a power to add to the description of child that is eligible by order, there are no current plans to make use of this power; consequently, it is not possible to model these costs at this stage.

36. Overall, there were no additional net costs in relation to kinship care in the original Financial Memorandum. This remains the case with these amendments.

SCHOOL CLOSURE

37. Part 11A of the Bill, added by way of amendments, makes a number of amendments to the process for school closure proposals under the Schools (Consultation) (Scotland) Act 2010 (“the 2010 Act”). This Act sets out the consultation processes and procedures that education authorities are required to follow when proposing changes to their school estate. The amendments to the 2010 Act that are anticipated to result in some costs are as follows:

- the requirement to provide financial information in relation to school closure proposals (section 68C);
- the additional requirements for rural school closure proposals (section 68D);
- the expansion of the role of Education Scotland (section 68E);

- the establishment of an independent referral mechanism following Ministerial call in (section 68E); and
- the provision which prevents the publication of a closure proposal within 5 years of a previous publication of such a proposal (section 68B).

Providing financial information

38. Section 68C amends section 4 of the 2010 Act to provide that closure proposals should be accompanied by relevant financial information. The Scottish Government will work closely with education authorities and other stakeholders to develop guidance in relation to and a standard form for the presentation of this information, to ensure that those being consulted are provided with accurate, consistent and easily understood information. While some education authorities are very good at presenting this information, others are less so, with information presented containing errors, omissions or simply unclear to lay readers as to how the figures have been derived.

Costs on the Scottish Administration

39. The Scottish Government will be responsible for drafting the guidance on how this information is to be presented. The staff costs associated with this are estimated at less than £10,000 and will be managed from within existing resources.

Costs on local authorities

40. Education authorities will be required to provide specific financial information to accompany their closure proposals in line with the guidance. COSLA and ADES strongly support this new duty and it is hoped that setting this important information out in a clear and consistent way will allow the financial implications of a closure proposals to be more clearly understood. It is believed this will help the overall consultation process by ensuring less contention around the details underpinning the proposal.

41. This is one part of a comprehensive package of information which education authorities are required to put forward as evidence to support a closure proposal. However, it does not require education authorities to collate new information or information not already held by them; it simply requires them to present it in a consistent and transparent way. Consequently, it is not considered that this new requirement will place any significant additional cost burden on education authorities.

Additional requirements for rural school closure proposals

42. Section 68D inserts a number of new sections into the 2010 Act (sections 11A, 12A and a substituted section 13) which impose additional requirements on education authorities in terms of the process to be followed for rural school closure proposals. An education authority will be required to carry out a more rigorous assessment in its formulation of a closure proposal, requiring it to consider reasonable alternatives to closure and assess the likely educational benefits, effect on the local community and likely effect of any different travelling arrangements of both the closure proposal and any alternatives identified. It will also require an authority to consult in a more thorough and transparent way.

Costs on the Scottish Administration

43. The Scottish Government will be responsible for drafting guidance in relation to the additional requirements for rural school closure proposals. The staff costs associated with this are estimated at less than £10,000 and will be managed from within existing resources.

Costs on local authorities

44. At present the 2010 Act contains additional safeguards for rural schools. There are 3 factors which a local authority must have special regard to when proposing a rural school closure. The Financial Memorandum for the 2010 Act set out the expected costs for this special provision for rural schools. The overall conclusion was that there were no additional school running costs directly attributable to the new and more rigorous consultation procedures but that there would be minor costs associated with publishing how the special factors relating to rural school closure proposals had been applied, of the order of an additional £2,200 per annum.

45. The procedures set out in section 68D are those that it was originally expected would be followed by local authorities under the 2010 Act when consulting on a rural school closure. Therefore, it is not considered that these new requirements will place any significant additional cost burden on education authorities beyond that which Parliament intended when passing the 2010 Act.

Clarifying and expanding Education Scotland's role

46. Ministers have previously sought Education Scotland's advice on a case by case basis either when considering calling in a proposal, or when determining a proposal that has been called in, or both. This amendment will formalise the role for Education Scotland in statute. The Bill refers to Education Scotland as Her Majesty's Inspectors of Education (HMIE) as it is the appropriate part of Education Scotland which would provide this advice (HMIE is responsible for the inspection of schools in Scotland – it has statutory powers of inspection conferred on it by Part III of the Education (Scotland) Act 1980 and also by the Public Services Reform (Scotland) Act 2010).

47. Given that Ministers' role in determining proposals that have been called in is to be transferred to the School Closure Review Panels under section 68E which inserts new section 17A into the 2010 Act, equivalent provision is also made in new section 17B of the 2010 Act for School Closure Review Panels to call on Education Scotland for advice where necessary.

Costs on the Scottish Administration

48. This will have a minor resource implication for Education Scotland, which is funded from the Scottish Administration. The precise cost will depend on the number of closure proposals that come forward in future and on whether Education Scotland's advice is sought by Ministers considering call ins or by the School Closure Review Panels considering proposals once called in.

49. Based on previous experience and in light of the effect of the various amendments being proposed to the 2010 Act, it is estimated that the number of school closure proposals being made in Scotland is likely to be in the range of 25 to 30 per annum. It is further expected that Scottish

Ministers may require to request advice from Education Scotland in around a third of these closure proposals – between 8 to 10 cases per annum. Provision of this further advice would not require Education Scotland to submit an additional report, but rather respond to specific issues raised with them by Scottish Ministers.

50. It is also estimated that around 5 to 6 closure proposals per annum might be called in and referred to the new School Closure Review Panels for determination. For some of these, the Panel may require additional advice from Education Scotland to assist them with their determination, perhaps 3 to 6 cases per year. However again, this will not require Education Scotland to prepare and submit a revised report; rather this will be dealt with in correspondence between the Panel and Education Scotland.

51. Education Scotland has estimated the cost of the additional requirement this will place on inspection staff at around £9,300. Education Scotland is expected to manage these costs within its existing budgets.

Establishing an independent referral mechanism

52. At present, school closure proposals that have been called in are determined by the Scottish Ministers. Section 68E which inserts new sections 17A to 17D into the 2010 Act changes that process by referring school closure proposals which have been called in (by Scottish Ministers) to the Convener of the School Closure Review Panels, who is to constitute a School Closure Review Panel to determine the case. The Convener is a statutory role and he or she will be appointed through the Ministerial appointments process. The Convener will be responsible for administering School Closure Review Panels, including the appointment of people eligible to serve as members of a Panel, the selection of members of Panels to determine each case, setting the rules for how Panels conduct a review and reporting to Ministers. This involves a transfer in functions from the Scottish Ministers who are currently responsible for determining school closures decisions that have been called in. There will be costs associated with the new independent function, though these will be partially offset by a reduction in the costs of administering the current “in-house” system. These costs will be borne by the Scottish Administration.

Costs on the Scottish Administration

53. The Convener of the School Closure Review Panels is expected to be a part-time appointment. It is hoped the Scottish Arbitration Centre may be in a position to provide administrative support for this function; this is being actively explored with the Centre. The equivalent of 2 administrative staff might be required to carry out administrative functions to support the Convener and School Closure Review Panel members. Based on current Scottish Government employment costs, it is estimated that the annual costs of the Convener of the School Closure Review Panels and the administrative support services which will be required to be delivered to both will be between £83,000 and £90,000.

54. It is hoped that it may be possible for the Convener of the School Closure Review Panels and the necessary administrative support to be located within the Scottish Arbitration Centre; the details of this are being actively explored with the Centre. Sharing office space and other resources with the Scottish Arbitration Centre should increase flexibility and value for money. If

co-location with the Scottish Arbitration Centre were not possible, other alternatives would be considered, including the possibility of locating the Convener within current Scottish Government accommodation. These office costs are estimated to be £22,000 per annum.

55. There will be initial and ongoing costs relating to appointing the Convener of the School Closure Review Panels and the Panel members. The Convener will be appointed under the public appointment process, making use of existing Scottish Government infrastructure and resourced centrally, with costs limited to £2,000 for advertising. This would be required every 5 years.

56. The Convener will be responsible for appointing Panel members, who will serve on Panels as required depending on when closure proposals are called in by Ministers. It is proposed that Panel members are recruited for a set period of 5 years and appointments are made in at least 3 tranches (to plan for staggered replacement of Panel members and to allow any vacancies that arise mid-term to be addressed). Costs might be incurred initially in years 1, 2 and 4. The additional cost of each appointment cycle round is estimated at £2,000.

Training for panel members

57. There will be on-going costs associated with the training for Panel members to ensure that they are fully aware and compliant with the statutory responsibilities set out under the Schools (Consultation) (Scotland) Act 2010. It is estimated that this would cost £15,000 in the first year, with further training costs of £10,000 in subsequent years whenever a new group of Panel members were appointed.

Costs associated with determination

58. As stated above, it is expected that on average education authorities will bring forward in the region of 25-30 school closure proposals per year, of which around 5-6 may be called in for determination by the School Closure Review Panel. Cases will vary in their complexity and the amount of time that the Panel will require to investigate and determine proposals. The complexity of the case and the length of time it takes for the Panel to determine it, will determine the cost, and it is estimated that the likely costs will range from £5,000 (for more straightforward cases) to £10,000 (for proposals with more complex issues), giving a total cost for determining 5-6 cases between £25,000 and £60,000 per year. An estimate of the travel and subsistence costs incurred by Panel members, to cover travel, overnight accommodation and meals where necessary, increases these cost estimates by £4,250 to £10,200 (depending on the complexity and number of cases considered) to a total of £29,250 to £70,200. The travel costs will vary significantly based on the location of Panel members, and it could be expected that members would be more likely to come from rural areas. The Panels are also likely to require legal advice and legal costs per annum are estimated to be around £10,000, which again will depend on the Panel's caseload and the complexity of the case.

59. These costs will be partially offset by savings from reduced workload for the civil servants currently delivering this function, and these savings are estimated at around £51,000-£65,000. These savings will start from 2015-16, once the transitional arrangements are completed. In the total cost tables at the start of this Memorandum, the higher of the figures in the ranges in Table 16 have been used.

Table 16: Costs of the school closures amendments (£)

	2014-15*	2015-16	2016-17	2017-18
Cost of recruiting Convener	2,000	0	0	0
Website costs	4,000	0	0	0
Cost of recruiting Panel members	2,000	2,000	0	2,000
Training for Panel members	15,000	10,000	0	10,000
Salaries for Convener and administrative support	41,500 to 45,000	83,000 to 90,000	83,000 to 90,000	83,000 to 90,000
Accommodation costs	11,000	22,000	22,000	22,000
Review costs	14,625 to 35,100	29,250 to 70,200	29,250 to 70,200	29,250 to 70,200
Legal costs	5,000	10,000	10,000	10,000
Reduction in core Scottish Government costs	0	51,000 to 65,000	51,000 to 65,000	51,000 to 65,000
Total	95,000 to 119,000	105,000 to 139,000	93,000 to 127,000	105,000 to 139,000

*Data for 2014-15 assumes that the Convener and Panels are operational for 6 months and incur 50% of standard annual costs.

Costs on local authorities

60. The School Closure Review Panel will be able to request the education authority to provide any relevant additional information it may require about the proposal in order to be able to make its determination. These would normally be requested to be provided in writing – it is not intended that a hearing will be required which would require either the education authority to attend or to be legally represented. The costs education authorities might incur in providing additional information are considered to be small and not expected to be an additional burden on the education authority. As noted above, it is estimated that only 5-6 cases might be considered by the School Closure Review Panels per annum.

Costs on other bodies, individuals and businesses

61. Representations about school closure proposals come from many sources, for example, from parents, pupils, community groups and other individuals including local businesses and employers. Where a case is referred to the School Closure Review Panel, it may seek additional information or representations from these groups or individuals. Any costs involved in this would be borne by the groups and individuals concerned, and it will be a priority that the practices developed by the Panel will minimise the burdens they place on third parties.

A 5-year moratorium between school closure proposals

62. At present, when an education authority decides not to implement a closure proposal or where consent is not given by the Scottish Ministers to a proposal called in, it is open to the authority to immediately start the process again. Section 68B which inserts new section 2A into the 2010 Act provides that when an education authority decides not to proceed with a closure

proposal or, in the event of call in, the School Closure Review panel refuses to give consent, the authority may not publish a proposal to close the same school again before the expiry of a 5-year period. There is, however, provision for exceptions to be made where a significant change has taken place.

Costs on the Scottish Administration

63. The new section 2A of the 2010 Act as inserted by section 68B, could mean a minor reduction in the number of closure proposals coming forward for consideration by Scottish Ministers for call in, and on those being referred to the School Closure Review Panels. However, the number of repeat proposals would be expected to be very small so this saving is not expected to be significant.

Costs on local authorities

64. The new section 2A of the 2010 Act will make it harder for education authorities to quickly repeat a school closure proposal which they have either decided against at a late stage or had refused by a School Closure Review Panel. However, this will be possible 5 years after a decision not to close the school or a decision of School Closure Review Panel to refuse consent, has been made, or earlier where a significant change has taken place. It would be anticipated that this would cover scenarios where the case for closure became compelling, for example, where the school roll had fallen very substantially or the school building had become unsuitable.

65. In preventing an education authority from bringing forward a closure proposal until the expiry of a period of 5 years after the publication of a previous closure proposal in relation to the same school, it could be argued that there may be a cost in maintaining a school for longer than the authority wished. However, it could not be guaranteed that a closure proposal made during that period would have received consent. Therefore it is not possible to estimate any cost implication in relation to such an argument as this would depend on the individual circumstances of the school concerned, its costs and the costs of the possible alternative arrangements and the time that the change was delayed by this new provision, section 2A.

CHILDREN'S LEGAL AID

66. An amendment introduced a new 71A section into the Bill, inserting a new section 28LA into the Legal Aid (Scotland) Act 1986 ("the 1986 Act"). Section 28L of the 1986 Act allows Scottish Ministers to make children's legal aid available by regulations for specified children's hearings under the 2011 Act to specified persons. The purpose of section 28LA is to allow Scottish Ministers to make similar regulations, in order to make children's legal aid available to children and other persons in respect of court proceedings under the 2011 Act.

67. The financial impact of the amendment is estimated to be relatively modest compared to current provision for children's legal assistance. Expenditure on children's legal assistance in 2012-13, prior to the 2011 Act coming into force, was £5.4 million. The Scottish Legal Aid Board has forecast that the impact of the 2011 Act on the cost of children's legal assistance will be £3.3 million. It is difficult to estimate the exact financial impact of the new section 28LA; children's legal aid is particularly susceptible to the impact of a small number of very expensive cases and the effects of the 2011 Act are still in their early stages. There are only a very small number of instances where it is felt likely to be appropriate to extend the availability of

*This document relates to the Children and Young People (Scotland) Bill as amended at Stage 2
(SP Bill 27A)*

children's legal aid for court proceedings as a result of the amendment. Nonetheless, the Scottish Legal Aid Board estimates that such an extension would be likely to have a very limited impact on application volumes although an individual case could be relatively expensive. It has, therefore, tentatively estimated a financial impact of around £10,000 per year.

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(SP Bill 27A)*

CHILDREN AND YOUNG PEOPLE (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY FINANCIAL MEMORANDUM

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