



Natalie Don-Innes MSP
Minister for Children, Young People
and the Promise
Scottish Government

Liz Smith CBE MSP
Scottish Parliament

By email

22 May 2025

Dear Minister

Schools (Residential Outdoor Education) (Scotland) Bill

Thank you for your letter of 3 May 2025 following our meeting of 29 April and my letter to you of 1 May.

Whilst I remain confident that the provisions of the Bill can be delivered, I note that your letter sets out conditions you would expect me to meet to enable you to lodge a motion for a Financial Resolution in respect of the Bill. I attach your letter for ease of reference (see Annexe A).

Two of the conditions you are seeking to include are: a) informing you of the results of tripartite discussions between COSLA, teaching unions and myself on teacher contracts and b) informing you of the outcome of discussions between the sector and myself in relation to the capacity to handle increased demand, including from children with complex additional support needs.

As you know, I have had very extensive discussions with many bodies about the policy development of my Bill over many months and I also have a forthcoming meeting with COSLA. I do not however, believe it is appropriate for me to have tripartite discussions with COSLA and teaching unions on the specifics of their contract with regard to the in-depth implementation of the Bill. Given the Scottish Government's central role with regard to any agreement, ministers and officials would need to take the lead but I remain willing to attend and contribute to any such discussions.

Specifically on the SNCT, the Stage 1 report recommendation on this (at para 160) is clearly that the Scottish Government provides its view as to whether teachers' Terms

and Conditions would potentially have to be renegotiated through the SNCT. The Stage 1 Report called on the Scottish Government to set out what potentially resulting costs might be. As you state in your letter, “it would not be appropriate for the Scottish Government to pre-empt the outcome of any such considerations as it is a tripartite group”. Given that any pay negotiations would be for a tripartite group, of which the Scottish Government is a party, I cannot be expected to be part of any formal negotiations.

The Parliament's Non-Government Bills Unit has advised me that the process to establish whether the Government will bring forward a financial resolution, as evidenced through their previous experience of discussions between Monica Lennon MSP and the Scottish Government on her successful period products legislation, involves an exchange of correspondence and meetings between the member and the Scottish Government. That process focuses on exploring what amendments could be lodged. In my case, this could propose altering the overall cost of the Bill whilst protecting the core elements of the policy which the Parliament has voted for in agreeing the general principles of the Bill at Stage 1. This advice from the NGBU is exactly in accordance with what I had assumed this process would involve.

To that end, and to make progress since time is of the essence in these negotiations, I have considered each of the conditions you have set out in turn. I have then considered what amendments could address the outstanding concerns from the Scottish Government that your conditions are based upon. My proposals are set out below.

Timing of implementation

I appreciate considering amendments to the teacher contract if required could take time, as could establishing when and how the new commitment could be rolled out. I appreciate the importance of discussions including with unions representing school staff, COSLA and the residential outdoor education sector in progressing towards implementation. These matters were given in depth scrutiny at Stage 1 and, as a result, I have made clear to you that I would accept amendments that change the commencement of the Bill to lengthen the timescales available for implementation to enable this planning to take place.

A cost reduction over the first years might also be achieved through transitional provisions, and I have made a suggestion below in that context which I would be happy to discuss further.

If faced with a choice between securing Scottish Government's agreement to lodge a financial resolution, which means the policy will be implemented later and over a longer period than I had envisaged, and the Bill not proceeding at all then I, of course, choose the former.

Equity of access

Whilst I have provided you with several examples of how funding can be found I note you are asking me to look at more targeted support. I accept moving away from funded access for all may be something I have to take forward to Stage 2.

Supporting children with additional support needs has been a core principle underpinning my Bill and, as was clear from the contributions in the Stage 1 debate, formed a large part of the cross-party support for the Bill at Stage 1. I consider children with additional support needs, who now number 40% of young people in mainstream schools and all young people in special schools, are very often those who are missing out on residential opportunities and therefore they should be the focus of full funding.

We discussed previously that potential amendments for consideration at Stage 2 that focused on reducing the overall cost might include more targeted rather than universal funding of the provision of Residential Outdoor Education. I welcome the examples provided in your letter to start this process. For example, the costings you provide for the Scottish Government funding all young people in receipt of free school meals and in receipt of the Scottish Child Payment, as you know, are options I would consider. In addition to these groups of pupils, I believe that both you and I would strongly argue that all those with additional support needs should be a central group that are all fully funded to receive residential outdoor education. There will of course be some overlap in the three cohorts of young people detailed above.

A viable alternative to moving away from the guarantee of funding for all pupils would be, in my view, amending my Bill so that the children attending residential outdoor education would do so in primary school alone in the first years of the implementation of the Bill. I would welcome a discussion on any such transitional arrangements as this approach would certainly sizeably reduce the cost of the Bill in the early years of implementation (see supplementary evidence from the Scottish Government to the Education, Children and Young People Committee in relation to secondary school specific costs). In making this suggestion, I fully anticipate and welcome that many secondary schools would continue, as at present, to provide residential outdoor education, which of course remains hugely beneficial to their cohort of young people.

In considering this option, it should be noted that as currently drafted the Bill states that Scottish Ministers could already set out in guidance what age groups residential outdoor education should be provided for.

These are the potential routes I consider our future discussions should focus on so that the Scottish Government can lodge a motion for a financial resolution. To aid these deliberations I am currently carrying out some work on the cost of residential outdoor education for children with very complex additional support needs and I will share the results with you very soon.

I also attach for your reference extracts of the Scottish Negotiating Committee for Teachers (SNCT) handbook which sets out the respective roles of COSLA and also the Scottish Government (See Annexe B).

I very much hope the suggested models above can form the basis of our discussions to progress towards agreeing a date for lodging a financial resolution. I look forward to meeting you soon to discuss this again to ensure we can reach agreement well in advance of the deadline for the lodging of a resolution in late September.

I am copying this letter to Douglas Ross MSP, Convener of the Education, Children and Young People Committee.

Yours sincerely

A handwritten signature in black ink that reads "Liz Smith". The signature is written in a cursive style with a long horizontal flourish extending from the end of the name.

Liz Smith CBE MSP

ANNEXE A – YOUR LETTER TO ME OF 3 MAY 2025

Dear Liz,

Schools (Residential Outdoor Education) (Scotland) Bill: Agreed Next Steps

Thank you for taking the time to meet with me on 29 April 2025 where we discussed what Scottish Ministers would require by way of assurances to inform our decision on whether to lodge a motion for a Financial Resolution on your Member's Bill up to 6 months following conclusion of Stage 1 on 28 March 2025. I also note your further correspondence to me on 1 May.

In summary, outlined below are the key conditions that I would expect to be met – as led by yourself, as the Member in Charge – as soon as possible to enable me to have informed discussions with my Ministerial colleagues in due course on this matter. In particular, as was made clear during our discussion, Ministers do not feel we have sufficient information or detail from you to make an informed decision on whether a motion for a Financial Resolution can be lodged. It is therefore crucial that the following points are agreed:

On affordability:

1. Clarification on total costs associated with the Bill as introduced – in particular, as related to provision for pupils with additional and complex needs, potential increased staffing costs (recognising the move from current reliance on teachers volunteering to support residential trips, to this becoming a requirement on teachers), and other associated costs such as transport, should the Bill become law. As discussed, this will necessitate you having further discussions with both COSLA and the teaching unions.

In addition, I have attached the Scottish Government's analysis, and caveats, that has informed our revised high level cost estimates for the Bill as introduced, noting also the additional costs that this doesn't model such as costs associated with provision for pupils with additional support needs. See **Annex A**.

2. A set of potential amendments for consideration at Stage 2 focused on reducing the overall cost as introduced, including on targeted rather than universal provision which you said in our meeting that you would be open to. As discussed, I have attached an initial set of proposals for targeting linked to Free School Meals and the Scottish Child Payment which could form the basis for such amendments. See **Annex A**.

In your letter dated 1 May, you seek clarity on the role that private finance may play in funding improvements in outdoor education provision. I remain of the position that models such as public trust funding would not be appropriate or viable in a context where statutory duties are imposed on education authorities and others. However, as I have indicated to the lead Committee, I am open to considering how private finance could be leveraged in a non-legislative context, for example, to support the outdoor education sector. But this would need to be informed by further analysis and data on sector requirements in response to any new generated demand for their services. In

your follow up letter, you further raise the question of the role that Pupil Equity Funding (PEF) can play in supporting delivery of the provisions, which we have discussed previously. During our meeting on 29 April, it was clearly discussed that this is not an avenue that could be pursued, as the nature of the PEF scheme (as part of the Scottish Attainment Challenge) is to provide headteachers with flexibility around how this funding is spent to best reduce the poverty-related attainment gap in schools. It would not be for the Scottish Government or Ministers to direct this funding to be used for residential outdoor education, as it is important that PEF use is determined on a local basis. However, in the context of a more targeted rather than universal approach to provision, this could mean that schools take the decision to use PEF to support pupils with residential experiences. There are other approaches too, for example parental contributions and fundraising, which could continue to add value in supporting pupils not directly funded through the Bill to be able to continue to participate in residential experiences.

On equity of provision:

3. Clarification of your expectations for equity of provision for individuals with additional support needs and how these will be met, informed by engagement with the outdoor education sector and other relevant partners (including, for example, Education Scotland and ADES), most notably relating to:

- The capacity of the outdoor education sector to provide for pupils with severe disabilities (both in terms of infrastructure and equipment, and workforce, to ensure pupils receive the right support); and
- The importance of flexibility in delivery to meet the needs of pupils with additional and complex needs for whom residential experiences may not be suitable.

You also signalled openness to amending the scope of the Bill to include cultural visits, recognising feedback from stakeholders that residential outdoor experiences may provide limited additionality in some locations.

On workforce implications:

4. Confirmation of engagement with COSLA and trade unions around potential workforce equality, staffing and contractual implications should the Bill become law, and agreement with these partners on how best to address these concerns.

In your letter dated 1 May, you ask for clarification on whether the Scottish Negotiation Council for Teachers (SNCT) would need to consider the implications of the Bill for teachers' contracts. That would be a decision for the group to take subject to progress of the Bill; and, as I have indicated to Parliament, it would not be appropriate for the Scottish Government to pre-empt the outcome of any such considerations as it is a tripartite group.

It would be helpful to hear from you on these numbered points before Summer Recess. This will then enable sufficient time ahead of September for a collective Ministerial decision to be reached around handling of the Financial Resolution.

I remain open to working with you and with other Members across the Parliament over the coming weeks.

Yours sincerely,
Natalie Don-Innes
Minister for Children, Young People & The Promise

ANNEX A

SCOTTISH GOVERNMENT COST ANALYSIS

The Financial Memorandum produces a central estimate of £27.2m, and a cost range of £20.4m - £33.9m for the cost of the bill provisions in the first year (Table 5, paragraph 52 of the Financial Memorandum). Our concerns around identified gaps in the Financial Memorandum's modelling are outlined in my letter to the lead Committee on 13 December 2024: Schools (Residential Outdoor Education) (Scotland) Bill

Scottish Government revised estimates of the costs of the Bill, as introduced, account for staff costs in secondary schools and inflation. Most recently revised to 2026/27 (now assumed to be likely Year 1 for commencement, should the Bill become law), this produces a potential cost range of £24.8 million – £41.5 million, as set out below. Inflation adjustments for these costs were applied using HM Treasury's March 2025 GDP Deflator series, including forecasts for the 2026/27 financial year.

Year 1 - 2026/27	Low estimate	High estimate
Costs of pupils attending residential outdoor education	£20,087,000	£33,912,000
Transport costs	£1,218,000	£1,440,000
Costs of producing guidance	£3,000	£7,000
Staff costs	£3,468,000	£6,148,000
Total year 1 costs	£24,800,000	£41,500,000

However, our estimate is caveated as it is based on the methodology employed in the Financial Memorandum to quantify for costs of producing guidance, residential outdoor centre costs and transport costs (potential underestimate, as set out in my correspondence to Committee), and does not account for costs associated with offering experiences for pupils with additional support needs.

Based on the provisions of the Bill as introduced, for the purposes of our modelling we have assumed that this would require five days of staff cover (at a cost of £356 per day, which is based on average teacher salaries and on-

costs, divided by 190 school days). We have further modelled for variation in these costs according to secondary school pupil:teacher ratios. Consequently, our estimates for staff costs for secondary teachers alone vary from £3.5 million to £6.1 million. Inflation adjustments for staff costs were captured through assumed salary increases of 3% per annum.

Options for targeting the duty to provide funding

Illustrative options for tailoring the Bill to reflect a more targeted approach that prioritises funding for provision and access amongst pupils from more disadvantaged circumstances such as those eligible for certain benefits, based on Government analysis, include:

Year 1 - 2026/27	Low Estimate	High Estimate
Total Costs	£24,800,000	£41,500,000
Option 1 - Free School Meals income criteria	£4,900,000	£8,200,000
Option 2 - Scottish Child Payment	£9,700,000	£16,300,000
Option 3 - Scottish Child Payment in P6-7/ Free School Meals income criteria in S1-4	£6,500,000	£10,900,000

Option 1 scales the cost of the Bill in line with the proportion of S1-S4 pupils who are registered for Free School Meals (19.8%). Given that this adjustment considers secondary school children only, a solution would need to be identified for P6-P7 families with similar circumstances. Option 2 scales the cost of the Bill in line with the proportion of P6-S4 pupils who are in receipt of Scottish Child Payment (39.2%). Option 3 combines Options 1 and 2, with each element weighted by the proportion of pupils in S1-S4 and P6-P7 respectively. The same caveats to the total cost that these illustrative scaled options are based on applies.

ANNEXE B – RELEVANT EXTRACTS FROM SNCT HANDBOOK

Appendix 1.1 of the [Scottish Negotiating Committee for Teachers \(SNCT\) Handbook](#) provides for the constitution of the SNCT (it is set out in full below). Section 2 of that Appendix sets out the scope and remit of the SNCT, stating:

“The Committee's remit is to consider salaries and conditions of service for teachers, music instructors, educational psychologists, quality improvement officers and education support officers who are employed by Scottish local authorities. The objectives of the negotiating body are:

(a) to create a salaries and conditions of service structure that contributes to a highly skilled and highly motivated teaching profession and underpins the delivery of a quality education service;

(b) to ensure that the outcome of negotiations secures, and maintains, appropriate levels of remuneration for the profession to enhance professional status; and

(c) to ensure that salaries and conditions of service reflect professional status including the commissioning, from time to time, of research on the comparative external position in order to inform its deliberations”.

Section 3 of that Appendix sets out the membership of the SNCT, and the tripartite arrangements. Specifically, section 3.1 states:

“The Committee will have 22 members, appointed annually, drawn from the Convention of Scottish Local Authorities (COSLA), the Scottish Government and organisations representing teachers.”.

The full constitution is set out below:

“PART 1: APPENDIX 1.1 - THE CONSTITUTION OF SNCT

1. NAME OF ORGANISATION

The body will be known as the Scottish Negotiating Committee for Teachers (SNCT).

2. SCOPE OF THE COMMITTEE

The Committee's remit is to consider salaries and conditions of service for teachers, music instructors, educational psychologists, quality improvement officers and education support officers who are employed by Scottish local authorities. The objectives of the negotiating body are:

(a) to create a salaries and conditions of service structure that contributes to a highly skilled and highly motivated teaching profession and underpins the delivery of a quality education service;

(b) to ensure that the outcome of negotiations secures, and maintains, appropriate levels of remuneration for the profession to enhance professional status; and

(c) to ensure that salaries and conditions of service reflect professional status including the commissioning, from time to time, of research on the comparative external position in order to inform its deliberations.

3. MEMBERSHIP

3.1 The Committee will have 22 members, appointed annually, drawn from the Convention of Scottish Local Authorities (COSLA), the Scottish Government and organisations representing teachers.

3.2 COSLA will have eight representatives and the Scottish Government will have three representatives.

3.3 The 11 representatives of teaching organisations will be drawn from the following associations. It will be for the Teachers' Side to determine its representation, relative to memberships.

- (a) Educational Institute of Scotland (EIS)
- (b) National Association of School Teachers/Union of Women Teachers (NASUWT)
- (c) Community
- (d) Scottish Secondary Teachers' Association (SSTA)
- (e) Association of Head Teachers and Deputies in Scotland (AHDS)
- (f) School Leaders Scotland (SLS)

3.4 Failure to appoint the allocated number of representatives by any of the parties/organisations cited in paragraphs 3.2 and 3.3 above will not invalidate any decision of the Committee.

3.5 In the event of any representative being unable to attend a meeting of the Committee, the sub groups or working parties, then a substitute from the nominating body, as named in paragraphs 3.2 and 3.3, may attend in his/her stead.

3.6 Should a vacancy arise for any reason, then a new member will be appointed from the original nominating body and will be entitled to attend meetings of the Committee for the period of the previous member's appointment.

3.7 There will be an Annual General Meeting. At the Annual General Meeting, Office Bearers, representatives of the constituent bodies and organisations, Joint Secretaries, the Treasurer and Auditors shall be appointed and a cycle of meetings for the coming year shall be arranged.

3.8 The chair of the Committee will rotate amongst the three constituent sides and there will be a designated spokesperson for each of the constituent sides.

4. SUB GROUPS, WORKING PARTIES AND ADVISERS

4.1 The Committee may establish sub groups, working parties or commission research and investigations to serve whatsoever relevant purpose provided there is agreement to do so. The Committee may also appoint Advisers, other than those appointed for the specific purpose of advising COSLA and the Teachers' Side, for such purposes.

4.2 The Committee, sub group or working party, may invite any persons to attend, and speak at, any meeting because of their expertise or specialist knowledge. Any person attending such meetings has no formal rights or status other than the ground upon which they were asked to attend.

5. FUNCTIONS OF THE COMMITTEE

5.1 The functions of the Committee are as follows:

5.1.1 To negotiate sustainable collective agreements on salaries and conditions of service which contribute to the development of a highly skilled and motivated teaching profession.

5.1.2 To promote and support the application of such agreements in Scottish local government and the education service in particular, for the benefit of teaching staff, pupils and communities.

5.1.3 To promote co-operation between Scottish Government, employers and recognised teaching organisations.

5.1.4 To support the promotion of equality and the avoidance of discriminatory practices in employment.

5.1.5 To support the promotion of Career-Long Professional Learning.

5.1.6 To provide advice and assistance to education authorities, recognised teaching organisations and employees on salaries and conditions of service matters.

5.1.7 To provide a national conciliation service for the resolution of disputes that cannot be resolved locally.

5.1.8 To settle ultimately differences of interpretation and/or application of the National Scheme of Salaries and Conditions of Service for Teachers and Associated Professionals (the National Scheme) that cannot be resolved locally.

5.1.9 To undertake any activity which assists the functions of the Committee stated above.

6. OFFICERS

6.1 The Committee will appoint three Joint Secretaries for administrative duties representing COSLA, the Scottish Government and the Teachers' Side and any other officers as is deemed necessary. The Joint Secretaries representing COSLA and the Teachers' Side will be responsible for dealing with enquiries regarding the interpretation of the National Scheme.

7. APPEALS

7.1 If a teacher considers that he/she has a grievance with the employing authority regarding the application and/or interpretation of the National Scheme, he/she must exhaust the employing authority's grievance procedure.

7.2 If a teacher is dissatisfied with the outcome of the employing authority's procedures, then he/she may ask for the case to be considered by the Joint Secretaries representing COSLA and the Teachers' Side.

7.3 The Joint Secretaries representing COSLA and the Teachers' Side will consider

whether the teacher's case is competent, (that is, based on the application and/or interpretation of the National Scheme) and will issue advice to both parties to assist resolution. If mediation or the advice from the Joint Secretaries does not resolve the matter or if there is a failure to agree, then the Joint Secretaries will refer the case to an Appeals Panel of the Committee. The Appeals Procedure of the SNCT is provided in Annex A and also in Section 2 Appendix 2.14 of the National Scheme.

7.4 The Appeals Panel will consist of a member from each of the three sides of the SNCT; the Teachers' Side, Scottish Government and COSLA.

7.5 The decision of the Appeals Panel will be final and be binding on all parties to the appeal.

8. MEETINGS OF THE COMMITTEE

8.1 The stipulation for the Annual General Meeting is outlined in paragraph 3.7 above.

8.2 Ordinary meetings of the Committee will be held as often as is deemed necessary.

8.3 The Joint Secretaries will call a special meeting if so requested by any of the three sides of the SNCT. The notice summoning the meeting will state the nature of the business to be transacted. The meeting will take place within 14 days of a requisition being submitted by one of the Joint Secretaries.

9. NOTICE OF MEETINGS

9.1 All notices of meetings of the Committee and related committees will be sent to representative members at least 7 days before the meeting.

10. DECISION MAKING

10.1 Decisions of the Committee will be by the agreement of all three sides.

10.2 Where there is a failure to agree, any one side may declare a dispute.

11. QUORUM

11.1 The quorum for Committee meetings is no less than one third of members of each of the three constituent bodies.

12. FINANCE

12.1 The administrative expenses of the Committee and related committees, and other relevant expenditure agreed by the Committee excluding the personal expenses of representatives which shall be met by the respective sides, shall be borne equally by the three sides unless otherwise agreed.

13. AMENDMENTS TO THE CONSTITUTION

13.1 The constitution may only be amended with the agreement of the Committee.

14. ARBITRATION

14.1 Any dispute may, with the consent of the Committee, be referred to arbitration.”