

Letter from the Minister for Children, Young People and The Promise, 24 March 2026

SSI Evidence Session 7 January – Further Information

Dear Convener,

Thank you for inviting me to give evidence at the Education, Children and Young People Committee on 7 January 2026 in relation to The Cross-border Placement of Children (Requirements, Effect and Enforcement) (Scotland) Regulations 2026. During the session, I undertook to follow up on several points raised, and this letter provides further information on each of these in turn.

The Cabinet Secretary for Education and Skills also gave evidence at Committee on the same day in relation to two SSIs being taken forward to enable implementation of the Education (Scotland) Act 2025. During the session she was asked to respond to concerns about legislation being laid before Parliament despite stakeholder concerns that aspects of Bills were not UNCRC compatible. The Cabinet Secretary agreed to write to the Committee to provide reassurance about the process for ensuring that all Bills laid before the Scottish Parliament are compatible with the UNCRC requirements. As the question focused on the Children (Care, Care Experience and Services Planning) (Scotland) Bill, from which the Cabinet Secretary is recused, I also use this letter as an opportunity to address this issue.

The Cross-border Placement of Children (Requirements, Effect and Enforcement) (Scotland) Regulations 2026 –

Meeting with Josh MacAlister OBE MP, UK Minister for Children and Families 6 January

During the session, I referred to my recent meeting with the UK Minister for Children and Families, Josh MacAlister OBE MP, and highlighted areas of shared interest, including cross-border placements. I also spoke about several initiatives being taken forward by the UK Government, including one which I referred to as regional care partnerships. I noted that I would return to the Committee with the official name for this initiative – my understanding is that the official term is “Regional Care Cooperatives”.

Visits under the Regulations

When discussing the requirements set out in the Regulations in relation to visits, Mr Mason asked whether these could be delegated to a relevant person within a Scottish local authority. While this is the case for foster care placements, I would like to clarify that this does not apply to residential placements.

Education Provision Prior to Placement

During the session, I provided an example of a young person being placed in Scotland without education provision having been arranged in advance. The Convener asked how long this situation continued and whether officials were aware of any other instances of this occurring.

Officials stated that this example was initially raised during engagement with stakeholders. An English local authority wrote to officials in November 2023 to seek advice. The authority had already placed a young person in Scotland and had then been unable to secure an education placement. The local authority advised they had been informed by the relevant Scottish local authority that no placements were available and were directed to explore private education options instead.

We do not have an exact record of the length of time for which the person was without education, but we know that it was at least 12 days.

Officials are not aware of any other instances of this occurring.

Ensuring that all Bills laid before the Scottish Parliament are compatible with the UNCRC requirements

Section 6(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (“the UNCRC Act”) makes it unlawful for public authorities, including the Scottish Ministers, to act, or fail to act, in connection with a relevant function in a way which is incompatible with the UNCRC requirements (as defined in section 1(2)). “Relevant function” is defined in section 6(2) of the Act.

It is also a requirement under section 23(1) of that Act that any Public Bill introduced to the Scottish Parliament be accompanied by a statement from the member introducing the Bill about the extent to which, in the member’s view, it would be compatible with the UNCRC requirements. Section 23(2) provides an equivalent requirement for Scottish statutory instruments (other than those bringing primary legislation into force). In the case of Scottish statutory instruments, that statement is normally included in the policy note accompanying the instrument when it is laid before Parliament. Under section 17, prior to introducing a Bill, or in making a Scottish statutory instrument (other than one bringing primary legislation into force), the Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment. The purpose of the impact assessment is to consider the likely effects of the legislation on children’s rights and wellbeing and so inform the development of the policy that is being implemented by the legislation. Such impact assessments can help to inform the Government’s assessment of compatibility of the legislation with the UNCRC requirements.

The concerns that stakeholders have raised about provisions in the Children (Care, Care Experience and Services Planning) (Scotland) Bill (“the Bill”) were not about whether the provisions are compatible with the UNCRC requirements. As required under section 23(1) of the UNCRC Act, the First Minister has made a statement that the provisions of the Bill are, in his view, compatible with the UNCRC requirements (see paragraph 264 of the Bill’s [policy memorandum](#)). Instead, stakeholders raised concerns about provisions in the Bill (relating to aftercare and the register of foster carers) having been drafted by making amendments to an Act of the UK Parliament rather than as free-standing provisions in an Act of the Scottish Parliament. This is because functions within Acts of the UK Parliament are not “relevant functions” for the purposes of the application of the compatibility duty in section 6 of the UNCRC Act. I outlined the reasons for the approach taken in [my letter to you](#) in response to the Committee’s Stage 1 report published on 14 January, and I refer you to part 2 of that response. This also outlines the Scottish Government’s commitment to explore

the removal of any legislative restrictions that currently limit the Scottish Parliament's ability to enhance human rights protections across all areas devolved to Scotland.

As you will know, at Stage 2 of the Children (Care, Care Experience and Services Planning) (Scotland) Bill, a number of amendments were passed that re-enacted the provisions above (relating to aftercare and the register of foster carers) to be free standing provisions. At stage 3, the government made some further technical amendments to the drafting of these provisions whilst maintaining those as freestanding provisions.

I hope this information is helpful and provides the clarification you and members were looking for.

Yours sincerely,

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