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Joe FitzPatrick
Convener
Equalities, Human Rights and Civil Justice Committee
Scottish Parliament

30 June 2022

Dear Joe,

I am writing to update you on the work that is ongoing in relation to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, further to my statement to Parliament on the 24 May.

As indicated in my letter to Committee on that same date, I was keen to take views from targeted stakeholders on the proposed approach I outlined in Parliament to bring the Bill within competence. The purpose of this engagement was to ensure that our key stakeholders understand the approach that we propose to take to amend the Bill and why, and to help us understand any concerns that need to be aired before or during Reconsideration Stage. The engagement closed on 17 June and I am grateful to those organisations who responded. A list of the organisations and groups who provided feedback is attached at Annex A.

Stakeholders, including children and young people, have indicated their support in principle to my proposals to amend the Bill. They recognise that the proposed amendments are necessary to address the Supreme Court judgment whilst minimising the impact on the original policy intention.

In relation to the operation of the compatibility duty (section 6 of the Bill) I am heartened by the commitment of duty bearers, amongst the stakeholders who responded, who remain determined to incorporate respect for children's rights into their actions, and have provided helpful suggestions to enhance the guidance that will be issued to support public bodies in the operation of their duties under the Bill. These include clarification of areas that remain covered by the Bill, such as application of the compatibility duty to the private, voluntary and

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independent sectors when delivering functions of a public nature and advice on how best to support children across areas across the full range of services.

Many stakeholders have expressed their desire for Scottish Ministers to be proactive in identifying areas of incompatibility in Acts of the UK Parliament given the ability of the Scottish Parliament to repeal or amend those provisions, and the Scottish Ministers' power (under the Bill) to make remedial regulations in this respect. It is also recognised that the Children's Rights Scheme will be a useful tool in driving forward progressive realisation of children's rights. The Scheme will set out the arrangements that the Scottish Ministers have made, or propose to make, to ensure that they comply with their obligations under section 6 of the Bill and to secure better or further effect of the rights of children.

I am now satisfied that I can instruct draft amendments in line with my stated intentions to Parliament, and, in tandem, move forward and discuss with Parliamentary Bureau the desired process for the reconsideration of the Bill. Additionally, I have instructed my officials to continue to engage with UK Government in an open and transparent way, with a view to avoiding further challenge to the Bill.

When this has been done, I will advise Committee of the timetable for bringing the Bill back via the 'reconsideration stage'.

I am sending a copy of this letter to the Education, Children and Young People Committee.

Yours sincerely,

JOHN SWINNEY

ANNEX A: LIST OF ORGANISATIONS AND GROUPS

Together: Scottish Alliance for Children's Rights

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Children and Young People Centre for Justice

Scottish Commission for People with Learning Disabilities (SCLD)

Care and Learning Alliance

Just Right Scotland

Centre for Excellence for Children's Care and Protection (CELCIS)

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