

T: 0300 244 4000  
E: scottish.ministers@gov.scot

Ruth Maguire  
Convener of the Equalities  
and Human Rights Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

13 November 2018

Dear Convener

Thank you for the constructive and helpful Equalities and Human Rights Committee Stage 1 Report on the Age of Criminal Responsibility (Scotland) Bill. I would also like to take this opportunity to thank all those who provided evidence, in particular those with lived experience of Scotland's care and justice systems and children and young people. It is clear that the Committee has carefully considered this important and complex area and I am grateful for the detailed recommendations in the report from which this significant reform will benefit.

I will consider the recommendations in the report carefully and provide a detailed response prior to Stage 2

In the meantime, the Committee have asked for a response to two of the recommendations in advance of the Stage 1 debate on Tuesday 13 November. A response is attached in the Annex to this letter. The text in bold are the recommendations from the Committee's report.

I look forward to continuing to work with the Committee and the wider Parliament in making the Bill as effective as it can be so that delivers in full on its stated objectives.

Yours sincerely



**MAREE TODD**

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**124. We ask the Scottish Government, prior to Stage 1 debate on the Bill, for an indication of when this audit will be completed, whether the age of criminal responsibility will form part of this work, and the timescale for incorporating the UNCRC.**

I want to reiterate this government's commitment to children's rights, as demonstrated in this year's Programme for Government's commitment to incorporate the principles of the UNCRC into domestic law.

In the 2017 Programme for Government we also committed to undertake a comprehensive audit on the most effective and practical way to further embed those principles including the option of incorporation. It is anticipated the Audit will be completed in the spring of 2019.

Evidence shows that there are different ways to incorporate the UNCRC, and that there are some particular complexities in relation to the UNCRC which require to be worked through. I am sure that the committee would agree that it will be important to develop a model that will deliver the best outcomes for children, young people and families in Scotland.

As with all significant policy initiatives, we will consult widely at various stages of the process, including with children, young people and families. We will also continue to work closely with local authorities and other public bodies across Scotland, as well as third sector partners.

In the meantime, we will continue to consider ways in which rights under the UNCRC can be given better or further effect across individual policy areas. This bill is evidence of that approach in action. Raising the age of criminal responsibility should be seen in the context of a unique, progressive youth justice system and Getting it Right for Every Child, as a key part of a complex process of better responding to children with significant needs.

And to support all our commitments, we are working with children, young people and stakeholders to co-design and co-deliver a three-year children's rights awareness-raising programme. I would be happy to share further information about that project with the committee as that piece of work develops.

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**151. We consider there is merit in the Scottish Government considering carefully the issue of any change to the burden of proof in its wider work around the PVG review and Disclosure to ensure that children aged eight-11 are not negatively impacted by this change. We ask the Scottish Government to provide us with an assurance this issue will be included into its wider work in advance of the Stage 1 debate. Additionally, we ask the Scottish Government to provide an update on progress prior to Stage 2 consideration of the Bill**

I am happy to provide assurance that the effect of the removal of the offence ground of referral to Children's Hearings, with criminal rules of evidence and standard of proof, for children aged 8-11, will be included in ongoing work. An update will be provided as requested prior to Stage 2 consideration of the bill.

I understand the Committee's concerns about the impact this will have on children and I can assure the Committee that Disclosure Scotland will provide clear guidance on this matter, in connection with the independent reviewer's future scrutiny of pre-12 behaviour, when the provisions in this Bill come into force.

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