Dear Ms Mitchell,

CHILDREN (SCOTLAND) BILL

Thank you for your letter dated 21 January 2020 regarding researchers gaining access to historic civil court records and the absence of data and statistics in relation to cases under section 11 of the Children’s (Scotland) Act 1995.

In relation to requests for access to court records, we have no record of any recent research request by Dr Whitecross for access to court records. The SCTS Head of Research (SCTSResearch@scotcourts.gov.uk) would be happy to discuss our process for accessing records with any interested researchers including Dr Whitecross.

Access to court records is carefully regulated due to the personal and sensitive nature of the content. Court records are exempt from access for 15 years under section 37 of the Freedom of Information (Scotland) Act 2002. The SCTS also has a duty not to disclose sensitive or personal information without appropriate justification under the terms of data protection legislation and agreement from the Lord President or Sheriffs Principal.

While our guidance indicates that it is unlikely that researchers will be allowed to look at and copy information from court records, research applications will always be considered on a case by case basis. Where researchers are not granted permission to look at court records, it may be possible that the SCTS are able to provide some information that will assist them.

In relation to the broader point around the data and statistics available on these cases, unfortunately, our case management system does not have a marker allowing cases to be designated as ‘Section 11 cases’. This means we are currently unable to easily identify, and therefore provide relevant management information, on this case type.

I hope this information is of some assistance to the Committee.
Yours sincerely

Eric McQueen
Chief Executive
0131 444 3301
emcqueen@scotcourts.gov.uk