

Call For Views on Children (Care and Justice) (Scotland) Bill by Finance and Public Administration Parliamentary Committee

SUBMISSION FROM SOCIAL WORK SCOTLAND

2nd April 2023

Introduction:

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome the proposals contained in the Care and Justice Bill and this opportunity to respond to the Call for Views by Finance and Public Administration Committee. We also responded to the Education Children and Young Persons Committee Call for Views¹ which provides additional context to this response.

The reflections within this response are drawn from consultation with our membership which covers senior leaders, including Chief Social Work Officers, service and team manager from across the country in both local authorities and third sector involved in delivery of services to children and adults. We have also consulted with partners.

Social Work Scotland as an organisation is supportive and appreciative of the bill's move to a more children's rights and trauma informed approach to the care of 16 and 17 year olds. With a workforce whose professional code adheres to the principles of human rights at the core of the Promise, social work can offer a particular perspective and context on the proposals in the bill, and one which is critical to the delivery of quality services

Earlier responses about care and justice¹ and related matters such as deprivation of liberty orders² outline the views of Social Work Scotland members, and these are reflected in

¹ [Children's Care and Justice Consultation - Social Work Scotland](#)

² [Cross-border placements of children and young people into residential care in Scotland - Social Work Scotland](#)

many aspects of the bill. As a social work organisation the principles of child centred and trauma informed approaches to the care of children, and the move to extend the definition of a child to the age of 18, with all the related aspects which come with this, is welcomed and in keeping with both our organisational principles and approach and our support of UNCRC.

Our response to the Education Children and Young People's Committee Call for Views³ reflects this support but underlines the equal importance of ensuring that attention is paid to the timing and sequencing of implementation, and the area specifically covered by this consultation, funding of such significant changes. This is critical to ensure that the policy intent of the bill is able to be realised, as is alignment with the many other policy and legislative initiatives which also have financial implications and are impacting on the children's social work sector. Some of the changes within the bill are dependent on or linked to other improvement programmes and particularly the work of the Children's Hearing Working Group to redesign the Children's Hearing System and Reimaging Secure Care work which has a similar remit in relation to secure care. Both of these pieces of work are also linked to the Promise, and the development of a more trauma informed approach to children's care, and both have financial and resource implications for those delivering the services.

This comes in a context where social work services are facing challenges not seen since the establishment of our current framework of local area based social work provision in the 1970's. We reiterate here our comments in the Education Children and Young People Committee Call for View⁴, that recent years have also seen a steadily growing gap between ambition, investment and ability to deliver, resulting in cumulative pressures on staff and our child care and wider system. In addition to the financial aspects, the expression of this context includes staffing shortages, issues with recruitment of core care givers, increased demand as a result of both greater levels of need following the covid 19 pandemic and as a result of new initiatives and improvements, and a context of wider financial pressures, change and uncertainty which is causing anxiety and uncertainty for the workforce. The

³ [Call For Views on Children \(Care and Justice\) \(Scotland\) Bill - Social Work Scotland](#)

⁴ [Call For Views on Children \(Care and Justice\) \(Scotland\) Bill - Social Work Scotland](#)

current national focus on adult social care, and additional funding being directed to adult services is welcomed by SWS, but the lack of similar funding for children, and the children's social work and social care workforce is adding to these pressures and lack of parity in services. This pressure is increased by the proposals within the bill.

An additional aspect of this wider context is the unanticipated requirements over the past year around support to Ukrainian families and unaccompanied asylum seeking children. The profession, and organisations employing and supporting our profession, have reached out and responded willingly, but the extent of this additional demand on both finance and wider resources cannot be underestimated – a third of children looked after away from home in some areas are now unaccompanied asylum seeking children

Social Work Scotland therefore, while fully supportive of the proposals in the Care and Justice Bill, cannot emphasise enough the importance of these changes being fully funded, with equal consideration given to the wider staffing needs and capacity of the sector to manage further change, including, as already highlighted, the sequencing of any changes resulting from the bill. Without those aspects being considered as part of decisions about implementation timescales, the bill will not achieve its purpose and risks placing further pressure and stress on an already stretched workforce, impacting further on recruitment and retention and capacity to meet the goals of Promise to which we adhere

Consultation Questions:

- 1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?*

Social Work Scotland responded to the consultation preceding the Bill in June 2022⁵. Within our response, our members, as the leadership in Social Work underlined the significance of the changes, and the resource and funding implications. Our response highlighted the resources and workforce necessary for successful implementation of the proposals and that without this the policy intent was unlikely to be achieved.

⁵ [Children's Care and Justice Consultation - Social Work Scotland](#)

Social Work Scotland note the gap between expectation and legislation, and ability to deliver. We strongly note that any improvements and changes in legislation and guidance around care and justice must be fully funded and resourced in order to ensure that implementation is achievable.

2. *If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?*

While there is acknowledgement in the Financial Memorandum that the Bill involves additional duties and demands on local authority children and families social work services, Social Work Scotland does not consider that the Financial Memorandum sufficiently appreciates the scale and financial costs of those changes. The links with the wider policy agenda and changes are appreciated, but the assumption that this means that local areas are already funded to cover aspects of the addition duties, is not considered to be soundly enough explored or represented – though it is noted that this is a complex dynamic.

Social Work Scotland is in agreement with the aim of the bill's proposals to improve care to young people. We note however that section 7 assumes that implementation of these more welfare focused proposals will result in savings to local authorities. Social Work Scotland would note that the proposals are about improving care to young people who are in need, and providing for them through the children's system rather than the adult system. It would be inaccurate to assume that this means that care is cheaper to deliver – and indeed many forms of care for children is significantly more expensive than that for adults eg residential care..

Our response to the pre-bill consultation⁶ outlined the importance of resourcing the necessary supports to make the vision a reality eg support to those subject to harm, additional report requirements and support packages. The detail in the Bill provides a more specific framework around the changes which, while very welcome and in line with a UNCRC approach, do have resource implications which must be properly

⁶ [Children's Care and Justice Consultation - Social Work Scotland](#)

scoped. Aspects of this is challenging to determine as provision of care will often be bespoke. The increase in age of referral to the Reporter and removal of placement of 16 and 17 year olds in Young Offenders Institutions will lead rightly to those individuals being managed within the Children's Hearing System. This means additional demand not only for additional reports, but also provision of support services to meet the needs of this older age group. While attention in the Bill is given to those who have offended, our response to the Call for Views by Education, Children and Young Peoples Committee⁷ also noted the additional demand which will arise around those who may be referred on welfare ground, and specifically those who may be a risk of harm to themselves or suffering from mental health issues. This is an area which is already underfunded within health services, resulting in young people. The interface between children and adult services in this area is complex and the needs of those young people often require resources which are unavailable resulting in pressures on social services. This is not reflected in the financial memorandum.

Also of note is that pending the review of secure accommodation, alternatives to Young Offenders Institutions for 16 and 17 year olds who have committed offences which indicate that some level of restriction of liberty is required, are limited. Provision in a secure unit cannot be guaranteed, and bespoke alternatives are likely to be costly.

We would also note that while there has been a reduction in referrals to the Reporter over recent years, this is alongside greater provision to meet need at an early point, in line with GIRFEC and Promise. The current of cost of living increase and poverty is likely to lead to an increase in need, and this is anecdotally already reflected in our member's feedback.

We acknowledge the many variables and complexity in calculating the costs of implementing the bill's proposals, but would underline that experience of other policy

⁷ [Call For Views on Children \(Care and Justice\) \(Scotland\) Bill - Social Work Scotland](#)

initiatives is that the real costs is usually much greater than that suggested eg continuing care, and suggest that this is taken in to account.

3. Did you have sufficient time to contribute to the consultation exercise?

The Finance and Public Administration Committee Call for Views overlapped with the Call for Views from the Education and Young People's Committee. This came alongside a range of other consultation related to adult and justice services. For a small organisation this is a significant demand which while met, is done at the cost of other pieces of work. Longer periods of consultation would always be welcome.

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Social Work Scotland is not an organisation which hold statutory social work duties but rather supports those who do, and particularly the leaders across Scotland. As such there are no direct financial implications for Social Work Scotland, but significant implications for our members

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

We note the calculations the figures in relation to additional hearings has been taken. We suggest, noting the comment in 4 above, that the higher estimates are utilised, particularly as we are unclear about the assumption that all road traffic offences will be retained by courts. The work around a report to the Children's Hearing and that provided to a court is not equivalent there being a significant number of additional requirements and process – especially if a child is already looked after – required around the Children's Hearing system.

Social Work Scotland provided some rough indicative costing on the likely social worker time required to undertake the estimated additional 4000 reports on offences grounds and 1000 on welfare grounds. These calculations were not based on a robust theoretical approach, but on discussion with those currently undertaking this

work, conscious that the time involved varies depending on specific circumstances such as whether the grounds are accepted, an interim order is in place, or the child is looked after away from home. Despite this, our estimation was that this one aspect of the Bill will require an additional 37 social workers, based on a 35 hour week, not including administrative aspects, or the provision of the service to the child and family.

In addition to the above there are requirements around the increase in aftercare and support which require to be costed.

We would also note that the assumption of transfer of funding from Justice and Adult services is at best unlikely. All services are under unprecedented pressures, and unless funding is specifically allocated, it cannot be assumed that it will be provided.

Our members also expressed concern that the 'system' is not ready for a blurring of the boundary between adult and children's care. To ensure that this aspect of support is available and the right support is large change. There are staff skill implications and training costs, as well as resource and service implications. Social Work Scotland therefore suggest that consideration is given to this direction of travel being progressed in an incremental manner focusing initially on provision and funding in relation to the resource and skill base required.

We are primarily restricting our comments to our area of expertness around social work, but would also note that:

- In relation to advocacy, where referrals of 16 and 17 year olds are related to care rather than offending, and particularly mental health issues, then advocacy is a particularly skilled area, and reference to advocacy in this field may be of assistance in determining both what provision is required and the financial implications.
- Safeguarding figures are taken from pre-pandemic periods, and the skill level of safeguarders will require to be increased given the likely complexity of older young people being referred.

- The assumption that young people who would usually be remanded or placed after sentencing in a Young Offenders Institution brings with it significant costs. Secure provision in Scotland is acknowledged as currently not fit for purpose, and is under review. Placement in secure requires availability of spaces, and the agreement for both the CSWO and the secure unit. This means that provision cannot be assumed, and that where not available, will require alternatives which are bespoke and costly, as this cohort of young people are assessed as a danger to themselves or to others. While supportive of alternatives these are not as yet well developed or tested, and where put in place are costly. Sequencing of provision must be considered alongside potential costs of those alternatives, alongside the costs of secure provision. Again inflation and cost of living must be factored in.
- Alongside this, while capacity in secure accommodation currently exceeds Scottish demand, the secure establishments can on average see half the places taken up by English young people. Acknowledging the work going on in this area, we also note that this means it cannot be assumed that there is capacity in terms of availability of beds where this is required for Scottish young people whether those currently accessing this provision or those who may as a result of implementation of the bill, be placed there rather than in a Young Offenders institution. Thus while affecting only a small number of young people and local authorities, the costs related to any alternatives noted above would be significant and may increase.

Finally we note that given the links between poverty and need/demand, the cost of living crisis and increase in inflation must be accurately reflected in the costing and funding provided for the implementation of this Bill. We note that the figures used to estimate costs are in some areas from some time ago eg sections 46 – 51. Thus the cost of living crisis is likely to be of even greater impact and we suggest that this work is undertaken with recent and more accurate data around both provision costs and pay to ensure that the bill is adequately funded, and local authorities and other providers more able to meet the policy intent.

6. *If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?*

As noted Social Work Scotland does not directly provide services but rather supports those who do.

7. *Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?*

Social Work Scotland consider that the figures used in the Financial Memorandum require further consideration. As noted, we provided very indicative costing in conjunction with CoSLA, for the additional demand around social work time for reports and the involvement of the social work sector in costings was appreciated. These figures though were very indicative, with a recommendation that a more robust piece of work be carried out to accurately provide a basis for calculation of costs in this area. We note that this has not been undertaken, and that since those figures were provided in autumn 2023, inflation has increased, and there have been pay increases across the sector not reflected in the Financial Memorandum. We would be happy to work further with Scottish Government in this area.

We would also note that learning from the implementation of continuing care would assist this development. Again this was, from a development and trauma perspective the right approach to take, but insufficient time and resource was given to the requirements needed for implementation. This has influenced ongoing issues and costs in this area, and importantly, the consequential impact on consistency of provision to young people.

Linked to the legal point above, we note in our response to the Education Children and young People's Committee Call for Views⁸, the need to include in this aspect of the bill the interface between other critical and related legislation in the adult and justice field. Adult Support and Protection legislation sets out specific skills and criteria for use of legislation with a vulnerable adult from the age of 16 onwards, including whether a child or adult protection approach is most appropriate. The Financial Memorandum proposals that there will be resource transfer from adult

⁸ [Call For Views on Children \(Care and Justice\) \(Scotland\) Bill - Social Work Scotland](#)

services and that children's services pick up this work for young people who were subject to a supervision requirement is not realistic. There is an additional risk of increased delay in transfers to adult services where this is appropriate, with resultant additional costs. We have already noted that any proposed resource transfer from justice to children services is likely to be difficult if possible given the ring fenced nature of funding for justice services.

Similarly for 16/17 year olds currently in the Justice system, as soon as an order ends, there is no aftercare. While we acknowledge the rightness of the change, this will no longer be the case under the bill's provisions; and provisions elsewhere in the bill, providing children in secure accommodation with aftercare rights has longer term resource implications. Recognising the uncertainty of what this would involve, it is acknowledged that it is impossible to gauge what may be involved, but also that the additional demand is noted, but not reflected in the Financial Memorandum.

The Financial Memorandum notes that children who are looked after already have access to aftercare provision and that no additional costs are therefore anticipated. Social Work Scotland would dispute this as the increase in numbers of older young people accessing the Hearing system will also result in additional numbers being eligible for aftercare. While some young people would already be in the system, the estimated additional 5,000 reports will translate in to additional compulsory supervision orders, and therefore more young people eligible for after care. This must be reflected in the Financial Memorandum, as the sector does not have any spare capacity to absorb such costs.

As noted in our response to the Call for Views by the Education Children and Young Peoples Committee⁹, ongoing aftercare support is 'the right direction of travel, building a system which has the infrastructure and skill base to support often struggling young people regardless of contextsuch a system requires investment and ongoing attention to funding, staffing and knowledge/skills', This also cannot sit in isolation, but is linked and likely to compound existing factors around availability of

⁹ [Call For Views on Children \(Care and Justice\) \(Scotland\) Bill - Social Work Scotland](#)

supports including health and care, accommodation, capacity to sustain accommodation, after care provisions and continuing care.

Social Work Scotland along with many others are acutely aware of the number of vulnerable 16/17 year olds, not least as a result of the high number of unaccompanied asylum seeking children now resident in Scotland. This underlines the importance of attention to implementation processes and timescales to ensure that decision makers receive the right training on the use of the new powers, and that the measures open to Children's Hearings around Compulsory Supervisions Orders are able to appropriately meet the needs of those whose safety is at risk or who are a risk to others.

Such provision has resource implications particularly for social work services e.g. where a child's movement is to be restricted how this is monitored? Such situations should be the exception, and must be part of a wider package of care and support, and any restrictions to freedom must align with UNCRC.

Conclusion:

Social Work Scotland note the complexity of calculating the financial implications of the Children (Care and Justice) (Scotland) Bill. We reiterate that we are supportive of the human rights approach reflected in the bill, and the alignment with the commitment of the Promise. However alongside this we underline the criticality of implementation timescales and resources, taking account of both the costs required to make the bill a reality, the importance of appropriate sequencing of the bill's provisions with other policy initiatives and changes, and of the bill being fully funded with conscience of both the uncertainties of certain areas and the cost of living crisis. Social Work Scotland are committed to improvement and willing to continue to work with Scottish Government in this area.

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