

An Leas-phrìomh Mhinistear agus Ath-shlànachadh
Cobhid
Deputy First Minister and Cabinet Secretary for Covid
Recovery
John Swinney MSP



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Daniel Johnson MSP
Deputy Convener
Finance and Public Administration Committee
Room T3.60
The Scottish Parliament
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Dear Deputy Convener,

Thank you for your letter of 4 October 2022 relating to the Finance and Public Administration Committee's post-legislative scrutiny of the Financial Memorandum for the Children and Young People (Scotland) Bill - which became the 2014 Act. I welcome the Committee's work on this Financial Memorandum (FM), focusing specifically on the expansion of funded early learning and childcare (ELC) provision from 475 to 600 hours.

As the Committee is aware, the Scottish Government has almost doubled the entitlement to high quality, funded ELC from 600 to 1140 hours per year for all eligible children. This expanded entitlement has been available since August 2021, an achievement that is all the more notable for having been accomplished by the Scottish Government, local authorities and our local delivery partners in the face of the pandemic. I am pleased to note that we continue to see high levels of uptake as we move into the second full year of implementation. The latest Improvement Service [delivery statistics](#) show that, as of September 2022, almost 94,000 children were accessing their funded ELC entitlement, representing an increase of three per cent year on year. Of these children, 97 per cent (91,465) were accessing more than 600 hours and 89 per cent (83,237) were accessing the full 1140 hours.

The Minister for Children and Young People and I have considered the Committee's recommendations carefully in relation to the ongoing delivery of high quality ELC. I will provide further detail on how these are being taken forward below.

Strengthening financial processes within the 1140 programme

In relation to those recommendations on dealing with uncertainty and risk within FMs, although the Scottish Government sought to ensure that the estimates for ELC expansion in the original 2013 FM were as accurate as possible, we have drawn on the lessons from the

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600 hours expansion and sought to make improvements to how we monitor the costs of the 1140 programme.

The establishment of the ELC Finance Working Group (FWG) in 2017 has been critical to improving the accuracy of our cost estimates and strengthening our overall financial capability. The FWG is co-chaired by COSLA and the Scottish Government, and includes local authority representatives including CIPFA Directors of Finance, SOLACE and ADES Resources. It was first established to lead the work on determining allocations in relation to the expansion of ELC to 1140 hours, and continues to play a vital role in ensuring that the 1140 programme is delivering value for money, in considering distribution models, scrutinising analysis and carrying out work to inform funding agreements.

On the Committee's recommendation that an agreement on a distribution formula should have been reached at an earlier stage in the process, during 2020 and 2021 the FWG carried out detailed work to agree a simplified single distribution formula for ELC to replace the eight separate lines previously used. This was implemented in the 2022-23 settlement, and is being phased in over three years to assist authorities with the transition to a formula that better reflects local demographic factors, rurality and deprivation. We will continue to refine these arrangements through the FWG.

The payment of sustainable rates - that reflect the cost of delivery and enable the payment of the Real Living Wage to those workers delivering funded ELC - by local authorities to services in the private, third and childminding sectors is a key aspect of Funding Follows the Child. The Scottish Government's funding agreement with COSLA for 2022-23 enables local authorities to pay sustainable rates. Supporting detailed guidance on setting sustainable rates was initially published in April 2019, with the [latest update](#) in May 2022. A key aspect of the guidance is the importance of local authorities engaging with providers in the private, third and childminding sectors as part of the rates setting process. This has helped to support significant increases in hourly rates in recent years, with the average rate paid by local authorities to providers in the private and third sectors to deliver an hour of funded ELC to three to five year olds increasing from £3.68 per hour in 2017-18 to £5.44 per hour in 2021-22, an increase of 48 per cent. Scotland had the highest average funding rates in the UK in 2021-22 - the average rate paid by Scottish local authorities of £5.44 per hour compared to £4.50 an hour in Wales and £4.88 an hour in England.

We have recently sought information from councils about their rates for 2022-23 and will publish this information by the end of the year. We continue to work with local authorities and private, third and childminding sector providers to further strengthen the process for setting sustainable rates. We are also working with local government to review the approach to setting rates in 2022-23 to identify where this can be improved further.

In relation to the Committee's recommendations on the monitoring of implementation costs, since 2016 we have undertaken significant work to improve our monitoring of ELC expenditure data, to complement the Scottish Government's existing processes for monitoring local government spend. In 2016 we published a detailed review of ELC expenditure and costs, informed by a robust process of evidence gathering from local authorities and private providers. We have since undertaken three rounds of financial data collection through the FWG. As set out in the [Early learning and childcare expansion programme: evaluation strategy](#), which we published on 6 October 2022, we will also undertake a full economic evaluation of the ELC expansion.

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In relation to capital budgets, the Children and Young People (Scotland) Act 2014 placed a statutory duty on local authorities to make available funded ELC in response to local need, as demonstrated through parental consultation. Our capital investment for the ELC expansion programme has supported the delivery of that statutory duty, with local authorities responsible for developing and delivering local capital investment. In 2017 we published Expansion Planning Guidance for local authorities. This guidance and further correspondence emphasised that local authorities should enhance the use of partner provider assets, working creatively with partners on funded ELC delivery.

The Scottish Futures Trust is responsible for monitoring the delivery of the ELC capital programme. The latest published information from the Scottish Futures Trust - captured within the November 2022 [Improvement Service ELC monitoring report](#) - indicates that, as of August 2022, 825 projects, or 90 per cent of the ELC capital programme, were complete. It is important to note that not all capital projects were required to deliver 1140 hours from August 2021. Projects not completed by this date are linked to increased flexibility, forecast growth and longer-term learning estate development projects. We will continue to work with partners to monitor progress of the remaining projects on the capital programme

The Committee will be interested to note that, shortly after you wrote to me on 4 October 2022, we published our '[Best Start: Strategic early learning and school age childcare plan for Scotland, 2022-26](#).' The plan provides clarity and transparency about the outcomes we are seeking to achieve with 1140 - and how these link to the National Performance Framework - as well as the practical steps we will take to embed the benefits of our transformational investment. The plan also explains our approach to expanding our childcare offer over the next four years, including building a future system of school age childcare and a new early learning and childcare offer for one and two year olds, starting with those who need it most. As noted above, alongside the plan, we published the [Early learning and childcare expansion programme: evaluation strategy](#). The strategy sets out our approach to evaluating the impact of the ELC expansion on outcomes for children, parents/carers and families.

We also continue to progress work relating to the inspection of ELC and school age childcare services. Our consultation on the inspection of these services closed on 28 October 2022. This gathered views on the strengths of existing arrangements, where improvements can be made and on specific proposals to streamline and improve the inspection of ELC and school age childcare services through the introduction of a shared quality framework. Analysis of the consultation responses is currently underway and we expect to publish our findings and response in early 2023. The Scottish Government is also working with the Care Inspectorate and Education Scotland to help strengthen and co-ordinate their existing joint inspection work and communications with the sector.

Considerations for wider policy development

I also welcome the Committee's wider comments about FMs. I have noted in particular your wider recommendations on: ensuring that FMs reflect a range of costs; considering the appropriateness of delivering major policy expansions via secondary legislation; ensuring that outcomes and monitoring information are considered at an early stage in the development of policy; gathering data on a regular basis, including comparisons between allocations and expenditure at local authority level where that is appropriate; reflecting on where improvements may be made to the allocation of funding for capital projects, notably where this involves partner provision; and that partner provider rates are considered at an early stage in the funding process and within FMs where necessary.

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I am committed to continuous improvement in the development of FMs across Scottish Government, reflecting the important role they play in the allocation and management of public expenditure. I can assure the Committee that best practice is systematically shared with policy teams responsible for legislation in any given year, including advice on the development of FMs. Acting in my current capacity as Finance Secretary, I have shared the Committee's letter with the network of finance officials who support Scottish Government portfolios and policy teams in developing FMs, to raise awareness of your findings beyond solely those teams working in ELC.

With regards to the National Care Service (NCS), we have set out a range of potential costs based on current assumptions. Any decisions about spending on the NCS will be based on rigorous evidence and will also be subject to future Parliamentary budget-setting processes. As the Independent Review of Adult Social Care made clear, there is a wider need for investment in social care. Many of these are in areas that are not set out in the FM for the NCS as they do not directly relate to the legislation.

The Scottish Government is committed to engaging with people with experience to co-design the detail of the new NCS system, to finalise new structures and approaches to minimise the historic gap between legislative intent and delivery. The Bill creates a framework for the NCS but leaves space for more detail to be made during co-design with those who have lived experience of the social care system, and flexibility for the service to develop and evolve over time. Some of that detail will be implemented through secondary legislation, whilst other elements will be for policy and practice. Where those decisions are implemented through secondary legislation, under this Bill or through pre-existing powers, financial and regulatory impact assessments will be provided. The Parliament will, therefore, have further opportunities to examine the implications of the Scottish Government's proposed reforms to the social care system.

Thank you once again for your detailed recommendations and I hope this letter provides a helpful update on the actions we have in hand to address them.

John Swinney

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