

MSP briefing: Legislative Consent Motion Children's Wellbeing and Schools Bill Community-based and secure accommodation Children and Young People's Commissioner Scotland

June 2025

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights. The Commissioner is fully independent of the Scottish Government.

We are writing to express our concerns about the amendments to clause 11 of the above bill which will allow a child normally resident in Scotland to be placed at a secure unit or community-based care setting in England.

Cross-border placements are only appropriate in exceptional circumstances, for example where there is a close family or other link to the area and the placement will facilitate the development of that link. They should not routinely be used to address a lack of provision of any type, in either England or Scotland.

We have longstanding concerns about cross-border placements into Scotland and have previously outlined these concerns in evidence to the Education, Children and Young People Committee.¹ We have the same concerns about any potential increase in the number of children from Scotland placed elsewhere in the UK. In particular, we note that the proposed community-based settings in England have yet to be developed and so little information is available about how they would meet children's needs and respect their rights.

Any long-distance placement increases the risk of breaches of a wide range of children's rights. In particular, these can impact upon a child's relationship with their family (Article 9 UNCRC) and friends (Article 15 UNCRC) as well as having a long term impact on their rehabilitation and reintegration into their home community (Article 39 UNCRC).

In the case of cross-border placements, these risks are amplified by the impact of different health, education and justice systems. Parliament should seek assurance that the provisions that permit children to be placed from Scotland into England will not be used unless Scottish Ministers are satisfied that potential risks to children's rights have been addressed and resolved.

Where an emergency placement is made for a Scottish child with no link to England, this should be subject to frequent review, with the child returning to Scotland as soon as possible. The placement must also be subject to the same quality thresholds as provision in Scotland.

For further information, please contact Megan Farr, Policy Officer at megan.farr@cypcs.org.uk

¹ <https://www.cypcs.org.uk/wp-content/uploads/2022/06/CYPCS-Briefing-Cross-Border-Placements-Regulations-Education-Children-and-Young-People-Committee-13.05.2022.pdf>