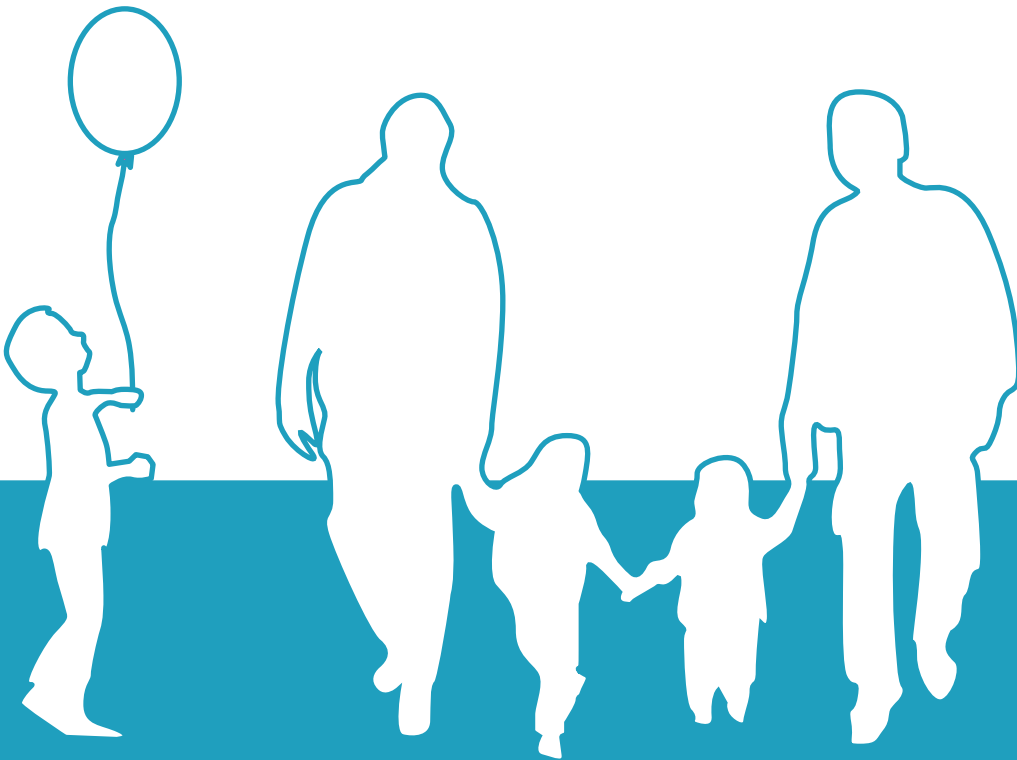




CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014:

Guidance on Part 1:

**Duties of Public Authorities in Relation
to the United Nations Convention on the
Rights of the Child (UNCRC)**



Scottish Government
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PREFACE

1. This non-statutory guidance¹ is issued by Scottish Ministers to provide public authorities with information and advice about how they should fulfil the duties set out in Part 1 of the Children and Young People (Scotland) Act 2014 (Duties of public authorities in relation to the UNCRC). The guidance seeks to establish best practice in relation to the implementation of these duties.
2. Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 (“the Act”) places a duty on a range of public authorities (including all local authorities and health boards) to report, “as soon as practicable” after the end of each 3 year period, on the steps they have taken to secure better or further effect of the requirements of the United Nations Convention on the Rights of the Child (UNCRC)².
3. The public authorities subject to this duty are listed in schedule 1 to the Act. They can satisfy the duty to publish a report in such manner as they consider appropriate – for example, through the preparation of a specific report, or by including relevant information in another report. Two or more public authorities can also satisfy this duty through the preparation and publication of a joint report.
4. To properly understand the duties set by Part 1 of the Act, individual sections should not be taken out of context or read in isolation from each other. The guidance is for those with responsibilities within public authorities for implementing and delivering on the provisions of the Act. This is likely to include strategic leaders and senior planning managers in health boards, local authorities and the other authorities listed in schedule

¹ Production of statutory guidance is a requirement of legislation and must be adhered to. “Non-statutory” guidance is used discretionally and produced to support delivery and advise on best practice.

² “UNCRC requirements” in Part 1 (section 4) of the Act means the rights and obligations set out in Part 1 of the UNCRC (Articles 1 to 41) and Articles 1 to 6(1), 6(3) and 7 of the first Optional Protocol, and Articles 1 to 10 of the second Optional Protocol. An Optional Protocol is an additional UN legal mechanism that complements and adds to an international treaty after its original adoption.

1. A table setting out the public authorities to which the Part 1 duties apply currently is attached at Appendix 1. (It is worth noting that this table could be amended by virtue of section 3 of the Act at some point in the future.)

5. Although children, young people and their families may wish to refer to this guidance, further information on the new duty on public authorities under Part 1 of the Act will need to be developed at the local level to support their understanding of the operation of the new provisions.

6. Section 2(1) of the Act requires an authority to which this section applies to publish its report “as soon as practicable after the end of each 3 year period”. Section 2(2) provides that the 3 year period begins with the day on which section 2 comes into force. This section of the Act is due to come into force on 1 April 2017. The end of the first 3 year period will therefore be 31 March 2020. There is an ongoing duty to report after each subsequent period of 3 years.

SUMMARY OF THE CONTENTS OF THE NON-STATUTORY GUIDANCE FOR PART 1

7. This overview provides signposts to specific aspects covered in this non-statutory guidance for Part 1 of the Children and Young People (Scotland) Act (“the Act”). Public authorities are encouraged to explore the detail of the guidance in order to inform their planning, activity and reporting.

Duty on public authorities to report on the UNCRC

8. Section 2 of the Act places a duty on those authorities listed in schedule 1 to report, “as soon as practicable after the end of each 3 year period”, on the steps they have taken to secure better or further effect of the UNCRC requirements as defined in section 4(1) of the Act. (For the remainder of this guidance this is referred to as a “Children’s Rights Report.”)
9. This section of the 2014 Act is due to come into force on 1st April 2017. The first 3 year period will run from 1st April 2017 to 31st March 2020, when a report is due “as soon as practicable”. For more detail, please see Overview of Part 1 and Appendix 1.

The UN Convention on the Rights of the Child

10. The UN Convention on the Rights of the Child (UNCRC) is one of the core international human rights treaties. It is a holistic framework for the rights of all children and a universally agreed set of minimum child rights standards. Governments are expected to do all they can to implement the UNCRC - to make sure all law, policy and decisions which impact on children from birth to 18 comply with their human rights. The UNCRC articles are interdependent - the mutually-reinforcing nature of children’s rights means that civil, political, economic, social and cultural rights all have equal status and are indivisible. This guidance includes details on the UNCRC in the Introduction, Appendix 2 and Appendix 6.

Developing a Children’s Rights Report

11. Before preparing a Children’s Rights Report, public authorities are encouraged to consider the following aspects:
 - the UNCRC assessment framework³ and its applicability for developing Children’s Rights Reports (see A Framework for Children’s Rights Reporting);
 - a commitment to involving children and young people in preparing Children’s Rights Reports (see A Framework for Children’s Rights Reporting and Appendix 4);
 - the child wellbeing indicators developed as part of the GIRFEC approach and their links with the UNCRC (see Appendix 3);
 - the [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)⁴, originally developed for the Scottish Government, which may offer a useful approach to local policy improvement (see Children’s Rights Reports and Other Frameworks); and
 - the potential links between the Part 1, section 2 duty to report on children’s rights and Part 3 duties relating to Children’s Services Plans (see Children’s Rights Reports And Other Frameworks and Guidance for Part 3).

12. In order to produce Children’s Rights Reports, public authorities should consider how they will establish baseline data on measurable outcomes that will inform the reports (see section on Process of Preparing a Children’s Rights Report).

A Framework for Children’s Rights Reporting

13. This guidance sets out a framework for reporting on children’s rights (see A Framework for Children’s Rights Reporting). The framework takes a child

³ The UNCRC assessment framework uses clusters of articles to review and report on the implementation of the Convention by State Parties.

⁴ <http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

rights-based approach using clusters of the Articles of the UNCRC. A summary of each UNCRC cluster and associated Articles is set out in this section. At the end of each cluster “reflective statements” have been included to give examples of areas that public authorities may wish to report on. This framework represents one possible approach and authorities are not obliged to adopt it.

14. Engaging with children and young people is an essential component of the preparation of Children’s Rights Reports, in line with a rights-based approach. This means that public authorities are expected to consider at an early stage how children and young people will be meaningfully involved, taking account of diverse experiences, views and circumstances. Approaches to involving children and young people are considered in the section Process of Preparing a Children’s Rights Report and Appendix 4.

Format and publication of Children’s Rights Reports

15. A suggested structure and format for reports is outlined in Publication of the Report. Reports should be produced in formats that are accessible to children and young people, families and other stakeholders in line with good practice and other requirements such as the Equality Act in relation to disability etc.
16. Public authorities should create opportunities for stakeholders, including children and young people, to scrutinise the findings of Children’s Rights Reports and provide mechanisms for feedback.
17. Section 2(1) requires authorities to publish their reports. It is the intention of Scottish Government that they are made public. Authorities are not required to submit reports to Government directly. The Scottish Government may highlight activity within Scotland by reference to the reports, within both their own report to Scottish Parliament (Section 1(4)) and in their submission to the UK Report to the UN Committee on the Rights of the Child (see Scottish Government Role/Responsibilities).

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

18. The [Children and Young People \(Scotland\) Act 2014](#) (“the Act”) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government’s strategy for making Scotland the best place to grow up. By facilitating a shift in public services towards the early years of a child’s life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government’s commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children’s services improvement programme, [Getting It Right For Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.
19. Composed of 18 distinct Parts, the Act makes important changes to the provision of early learning and childcare, looked after children’s and care leaver services, and children’s services planning and introduces the provision of named person services and the child’s plan. Where relevant, guidance on these different Parts will be made available by Scottish Ministers. This non-statutory guidance relates to Part 1, section 2 of the Act.

INTERPRETATION OF FREQUENTLY USED TERMS

20. Throughout this document the following terms will be used:

The Act

21. This refers to the Children and Young People (Scotland) Act 2014.

Child

22. For the purposes of the duties outlined in this guidance, an individual is a child from birth until their 18th birthday. In this guidance, the Scottish Government's preferred term of "children and young people" is used. It is important to note that Part 4 use the term a "young person" in a manner specific to that part of the Act.

UNCRC

23. This refers to the [UN Convention on the Rights of the Child](#). This is the core international treaty which sets out the civil, political, economic, social and cultural rights to which all children are entitled. The 54 Articles of the Convention cover all aspects of a child's life.

Optional Protocol

24. An Optional Protocol is an additional UN legal mechanism that complements and adds to an international treaty after its original adoption⁵. The UK Government has ratified two of the three Optional Protocols to the UNCRC. Within the Act, the first Optional Protocol is on the involvement of children in armed conflict⁶ and the second Optional Protocol is on the sale of children, child prostitution and child pornography⁷.

⁵ <http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

⁶ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

⁷ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

UNCRC requirements

25. “UNCRC requirements” in Part 1 (section 4) of the Act means the rights and obligations set out in Part 1 of the UNCRC (Articles 1 to 41) and Articles 1 to 6(1), 6(3) and 7 of the first Optional Protocol⁸ and Articles 1 to 10 of the second Optional Protocol⁹. There is no duty on public authorities under the Act to report on compliance with matters which fall outwith this definition.

Children’s Rights Reports

26. This refers to the reports that public authorities have a duty to prepare under Part 1 (section 2) of the Act.

Children’s Services Plan

27. This refers to the document which must be prepared every 3 years by a local authority and the relevant health board, under the terms of Part 3 (Children’s Services Planning) of the Act.

Rights-based approach

28. This refers to mainstreaming human rights (such as the UNCRC) across services, policy and practice.

Child rights-based approach

29. This approach uses the UN Convention on the Rights of the Child as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children’s human rights and places children and young people at the centre of policy development, and the design, delivery and evaluation of services.

⁸ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

⁹ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

Child Rights and Wellbeing Impact Assessment

30. The [Child Rights and Wellbeing Impact Assessment](#) (CRWIA) is a policy improvement approach which has been developed by the Scottish Government in order to assess the possible impact of its proposed policies and legislation with respect to the Articles of the UNCRC and children's wellbeing. It supports the Scottish Government in fulfilling the existing obligations under the UNCRC and the new Ministerial duties under Part 1 (section 1) of the Act. Public authorities might find the CRWIA approach useful for meeting their Part 1 duties.

Secure better or further effect

31. The Act requires public authorities to produce reports on what steps they have taken to “secure better or further effect” within their areas of responsibility of the UNCRC requirements. The phrase “secure better or further effect” is not defined in the Act so these words take their ordinary meaning. In considering what steps they have taken, public authorities may find it helpful to refer to the questions and examples of reflective statements contained within the “Framework for Children’s Rights Reporting”. For example do you “proactively consider children’s rights in service planning, engaging with and undertaking consultation with relevant stakeholders (including children and young people and parents/carers)”?. do you ensure that “information materials are available in a range of formats and in specific settings in order to meet the needs of individual children and young people” and continually assess these requirements? These kinds of activities could help evidence an overall approach to fulfilling your duties in relation to the UNCRC requirements under Part 1. Public authorities may wish to use other examples relating to the framework or may use other rights based approaches in their reporting.

INTRODUCTION

32. The Scottish Government is committed to making Scotland the best place for children to grow up; a Scotland where the rights of children and young people are respected, protected, enabled and fulfilled across our public services and society as a whole.
33. For the Scottish Government to deliver on this commitment, it is crucial that children's rights are a primary consideration whenever decisions are being taken which will affect children and young people, whether these are at the individual, local or national level.
34. The UNCRC is at the heart of the Government's commitment to ensuring that all children and young people have the best possible start in life, regardless of their circumstances. As duty bearers under the UNCRC, public authorities are expected to do all they can to implement the Convention and uphold children's rights.
35. The reports produced under Part 1 of the Act will provide evidence of the contribution of specified public authorities in Scotland to ensuring that children's rights are respected, protected, enabled and fulfilled. As such, these reports will help evidence how public authorities realise the shared ambition of making Scotland the best place to grow up.

Human rights

36. The duty on public authorities under Part 1 of the Act seeks to give further effect to human rights. These are the basic rights and freedoms to which we are all entitled in order to live with dignity, equality and fairness and to develop and reach our potential. Everyone, including children, has these rights, irrespective of their circumstances.

The UN Convention on the Rights of the Child

37. The UNCRC recognises children's capacities as autonomous rights holders with the ability to identify and claim rights on their own behalf. Established in 1989, the [UN Convention on the Rights of the Child](#) is a core human rights treaty which sets out an internationally agreed framework for the rights of all children and young people. Children and young people have long been considered to require special attention in respect of their rights because of their particular vulnerabilities and their reliance on adults. Even though they are autonomous rights holders, children and young people are generally dependent on others to give effect to their rights. These rights are set out in the 54 Articles and three Optional Protocols¹⁰ of the UNCRC.
38. The Articles provide a framework of standards, principles and guidance on implementation, which take into account specific childhood needs. The UNCRC recognises that countries have different legal systems and that implementation can be broadly applied. In line with other UN treaties, all rights are indivisible (i.e. all rights are considered equal), interrelated and interdependent (i.e. the enjoyment of one right depends on and contributes to the ability to freely exercise other rights).
39. The UNCRC provides children and young people with a series of individual rights, including the right to education, health, play and recreation, and an adequate standard of living. The UNCRC also provides for specific groups of children who need special protection or other forms of support: disabled children, children who have been exploited or mistreated, refugee and migrant children, children in custody, and children in care. Other groups of children sharing similar lived circumstances arise from consideration of the intersections of the different UNCRC articles, for example: children in urban and rural areas, those with additional support needs or who are

¹⁰ Optional Protocols are additional UN legal mechanisms that complement and add to an international treaty after its original adoption.

<http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

affected by poverty, deprivation or homelessness and children affected by violence, drugs or alcohol.

40. The UNCRC establishes the concept of a child's "evolving capacities" (Article 5) and states that direction and guidance provided by parents and others with responsibility for the child, must take into account the capacities of the child to exercise rights on their own behalf.
41. Four General Principles underpin each and all of the specific rights outlined in the UNCRC:
 - for rights to be applied without discrimination (Article 2);
 - for the best interests of the child to be a primary consideration (Article 3);
 - for the right to life, survival and development (Article 6); and
 - for the right to express a view and have that view taken into account (Article 12).

The UK as the State Party to the United Nations

42. The responsibility for signing and ratifying international Conventions is reserved to the UK Government.
43. Following its ratification in 1991, the UNCRC came into force across the UK in 1992. As the State Party to the Convention, the UK Government has primary responsibilities for the preparation and submission of the required monitoring reports to the UN Committee on the Rights of the Child. However, the Scottish Parliament has competence (by virtue of paragraph 7(2)(a) of Schedule 5 to SA 1998) to "observe and implement" international obligations, so far as they fall within existing devolved competence, including those arising under international human rights treaties which have been ratified by the UK, such as the UNCRC . Moreover, the Scottish Ministerial Code places an overarching duty on all Scottish Ministers "to comply with the law, including international law and treaty obligations." The Scottish Government actively contributes to UK Government reporting on

implementation of international human rights treaty obligations and prepares its own plans for progressing the UNCRC in Scotland¹¹.

44. Further information on the operation and monitoring of the UNCRC and other human rights treaties is attached at Appendix 2.

Rights-based approach

45. The international human rights framework provides standards which governments are obliged to respect, protect and fulfil. A rights-based approach takes these obligations and provides a means of embedding rights across services, policy and practice. It provides a framework for monitoring and evaluating progress on realising rights in different contexts and settings. It is therefore a useful way for government and other public bodies to take forward their commitments to human rights as part of their policy and practice.
46. The PANEL principles provide one framework for taking forward a human rights-based approach (see Appendix 5 for more details).

Child rights-based approach

47. A child rights-based approach uses the UNCRC as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children's human rights and places children and young people at the centre of policy development, and the design, delivery and evaluation of services¹². This guidance focuses on giving effect to the UNCRC and, therefore, public authorities are encouraged to use the UNCRC as the framework for reporting.

¹¹ <http://www.gov.scot/Publications/2016/08/1393>

¹² Scottish Government (2015) When and how to best use the Child Rights Wellbeing Impact Assessment (CRWIA).

OVERVIEW OF PART 1

48. The following sections provide relevant public authorities with advice on how to fulfil their Part 1 duty. Specifically, they provide information on:

- the UNCRC on which the new duties are based;
- the new duty on public authorities under Part 1 of the Act;
- the links between Parts 1 and 3 of the Act;
- an approach to public authorities' reporting on rights; and
- details of useful resources (see Appendices).

Duties on Scottish Ministers

49. Part 1 of the Act place duties on Scottish Ministers to:

- “keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC” (taking appropriate account of the relevant views of children) and, “if they consider it appropriate to do so, take any steps identified by that consideration”;
- “promote public awareness and understanding” in Scotland of the rights of the child, including amongst children; and
- report to the Scottish Parliament every 3 years on relevant progress in relation to the above and what they intend to achieve over the subsequent 3 year period. The first report is due in 2018. The views of children and young people will be integral to the effective implementation of this reporting duty.

50. Within the context of these duties, the Scottish Government has developed a model for Child Rights and Wellbeing Impact Assessment (CRWIA) for use across the Scottish Government¹³. This policy improvement approach will ensure that all ministerial portfolios consider the extent to which

¹³ <http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

proposed policies and legislation will impact on children in terms of their rights and wellbeing. Since the views of children and young people are integral to the CRWIA process, the CRWIA guidance includes information to support the effective engagement with, and participation of children and young people, in national policy-making.

51. The CRWIA is discussed further below. It is also referenced throughout the guidance as a useful resource on the UNCRC. Along with its support materials it provides additional information which may be helpful for children's rights reporting.

Duties on public authorities

52. Section 2 of the Act places a duty on a range of public authorities (including all local authorities and health boards) to report, as soon as practicable after the end of each 3 year period, on the steps they have taken to secure better or further effect of, the UNCRC requirements.
53. Public authorities can choose to satisfy this duty as they consider appropriate. This can be through the preparation of a specific report, or by including relevant information within another report. Two or more public authorities can also satisfy this duty through the preparation and publication of a joint report.
54. At the time of publication (of this guidance), the public authorities¹⁴ to which Part 1, section 2 apply are:

[See table 1 overleaf]

¹⁴ The "public authorities" to which Part 1, section 2 applies are those listed in schedule 1 <http://www.legislation.gov.uk/asp/2014/8/schedule/1/enacted>

Table 1: Public Authorities as defined by schedule 1

<ul style="list-style-type: none">a) A local authorityb) Children’s Hearings Scotlandc) Scottish Children’s Reporter Administrationd) A health boarde) A “special health board” (a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)f) Healthcare Improvement Scotlandg) Scottish Qualifications Authorityh) Skills Development Scotlandi) Social Care and Social Work Improvement Scotland (the Care Inspectorate)j) Scottish Social Services Councilk) Scottish Sports Council (SportScotland)l) Chief Constable of the Police Service of Scotlandm) Scottish Police Authorityn) Scottish Fire and Rescue Serviceo) Scottish Legal Aid Boardp) Mental Welfare Commission for Scotlandq) Scottish Housing Regulatorr) Bord na Gaidhligs) Creative Scotlandt) An integration joint board to which functions in relation to persons under 18 years of age are delegated in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014. [inserted by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications and Saving Order 2015 (SSI 2015/157

Reporting timescales

55. Section 2(1) of the Act requires an authority to which this section applies to publish its report “as soon as practicable after the end of each 3 year period”. Section 2(2) of the Act provides that the 3 year period begins with the day on which section 2 comes into force. This section of the Act is due to come into force on 1 April 2017. The end of the first 3 year period will therefore be 31 March 2020.

CHILDREN’S RIGHTS REPORTS AND OTHER FRAMEWORKS

56. Before preparing a Children’s Rights Report, public authorities are advised to consider the following aspects:

- the UNCRC assessment framework¹⁵ and its applicability for developing Children’s Rights Reports (see A Framework for Children’s Rights Reporting);
- a commitment to involving children and young people in preparing Children’s Rights Reports (see A Framework for Children’s Rights Reporting and Appendix 4);
- the child wellbeing indicators developed as part of the GIRFEC approach and their links with the UNCRC (see Appendix 3);
- the CRWIA, originally developed for the Scottish Government which may offer a useful approach to local policy improvement (see Children’s Rights Reports and Other Frameworks); and
- the potential links between the Part 1, section 2 duty to report on children’s rights and Part 3 duties relating to Children’s Services Plans (see this section and Guidance for Part 3).

These are considered further below.

Child Rights and Wellbeing Impact Assessment

57. The [CRWIA](#) assesses the impact of proposed policy and legislation on children’s rights and wellbeing, and is used for policy/ services improvement.

58. The CRWIA supports the Scottish Government to “identify, research, analyse and record the anticipated impact of any proposed law and policy on children’s human rights and wellbeing”¹⁶. It supports the Scottish Government in fulfilling the existing obligations under the UNCRC and the

¹⁵ The UNCRC assessment framework uses clusters of articles to review and report on the implementation of the Convention by State Parties.

¹⁶ Scottish Government (2015) When and how to best use the Child’s Rights and Wellbeing Impact Assessment.

new ministerial duties under the Act. This includes the duty to report progress on the implementation of the UNCRC to the Scottish Parliament every 3 years.

59. The CRWIA uses two frameworks for assessment: the UNCRC, and the child wellbeing indicators developed as part of the GIRFEC approach to children's service provision in Scotland. It helps ensure that leading UNCRC principles, such as the best interests of the child (Article 3 of the UNCRC) and children's views (Article 12) are integrated into policy development.
60. The Scottish Government CRWIA model has been designed to produce outputs which record how decisions that impact on children and young people in Scotland have been reached, and provides a basis for ongoing monitoring and evaluation of the policy or measure.
61. Although the CRWIA was developed for use by the Scottish Government, the CRWIA model and resources are available for wider use by public authorities should they wish to use them, for example for policy/services improvement, or to evidence as part of the reporting duties for Parts 1 and 3 of the Act their consideration of the rights of children across all areas of their activity. CRWIAs have been undertaken for Parts 1 and 3 of the Act as part of the policy development cycle. Since the views of children and young people are integral to the CRWIA process, the CRWIA guidance includes detailed information regarding the effective participation of children in national policy-making (see also this guidance Appendix 4 for Involving Children and Young People in Children's Rights Reports).

The child wellbeing indicators

62. GIRFEC is the national approach in Scotland to improving outcomes and supporting the wellbeing of our children and young people by offering the right help at the right time from the right people. It supports them and their parent(s) to work in partnership with the services that can help them. The Act places key elements of GIRFEC in statute. In particular, section 96 provides a statutory definition of wellbeing, relating it directly to the eight

wellbeing indicators – Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (sometimes known by the acronym SHANARRI). The statutory guidance for Part 18 (Section 96) of the Act provides further detail.

63. The importance of the relationship between children’s rights and wellbeing is central to the Act, and to realising Scottish Ministers’ commitments to children and young people. It is suggested that public authorities explore their own organisational understanding of the interaction between children’s rights and the wellbeing indicators in advance of undertaking children’s rights reporting in order to establish consensual views of the two inter-related concepts.
64. The publication “Children’s Rights Legislation in Scotland: A Quick Reference Guide” provides helpful interpretation of the relationship between rights and wellbeing:

“The UNCRC is a set of substantive, legal and procedural standards that focus on the role of the State in ensuring that these standards are met. It is the overarching framework within which all policy that affects children and young people should be developed, and within which child wellbeing sits.”¹⁷

65. The above Quick Reference Guide goes on to describe wellbeing as:

“...“a measure of the quality of a child’s life”. It is understood in relation to objective measures (such as income, health status, being a victim of crime, educational achievement) and subjective measures (such as life satisfaction or reported levels of happiness).”¹⁸

66. Appendix 3 identifies Articles of the UNCRC and matches them to wellbeing indicators. This is drawn from materials developed for the CRWIA and is an interpretation of the interaction between wellbeing indicators and UNCRC

¹⁷ Children’s Rights Legislation in Scotland: A Quick Reference Guide

<http://www.gov.scot/Resource/0049/00497048.pdf>

¹⁸ Ibid

Articles which can be used flexibly by authorities. It should be noted that UNCRC Articles may relate to more than one wellbeing indicator – e.g. Article 3 (best interests of the child).

67. Identifying the links between children’s rights and wellbeing will be particularly useful for authorities who wish to align their Part 1 duties on Children’s Rights Reports with their Part 3 duties on Children’s Services Plans.
68. It may also be useful for other public authorities using the wellbeing indicators or another framework such as the National Health and Wellbeing Outcomes to identify which Articles of the UNCRC would apply to their responsibilities.
69. For further guidance on the GIRFEC approach please refer to the Policy Update on Delivering the GIRFEC Approach.¹⁹

The assessment framework for the UNCRC

70. The UNCRC Articles provide for every aspect of a child or young person’s life from birth up to the age of 18 years. The range of Articles provides duty bearers with a structure for informed dialogue and assessment of the range of issues and circumstances that affect children and young people in Scotland. They therefore provide the basis for both Government and public authorities realising, or giving further effect to, children’s rights.
71. As part of the requirements for State periodic reports²⁰ the different Articles of the UNCRC are grouped into clusters. This is the structure that is recommended for reports to the UN Committee on the Rights of the Child and one that the UK Government and the Scottish Government in its

¹⁹ Policy Update on Delivering the GIRFEC Approach.

<http://www.gov.scot/Resource/0050/00508709.pdf>

²⁰ The UK Government (as the State party) submits periodic reports (approximately every 5 years) to the UN Committee on the Rights of the Child on its implementation of each treaty. These reports address both reserved and devolved matters and incorporate contributions from the Scottish Government.

contribution follow.

72. For the purposes of Children's Rights Reports, the clusters offer a framework which can facilitate reporting. This is explored in more detail in the following chapter (A Framework for Children's Rights Reporting). The clusters are:

1. *Definition of the child*

Article 1 of the UNCRC defines a child as anyone under the age of 18.

2. *General measures of implementation*

This cluster deals with structures and resources to implement the UNCRC including legal and non-legal measures.

3. *General principles of the UNCRC*

There are four guiding principles of the UNCRC: for rights to be applied without discrimination (Article 2); for the best interests of the child to be a primary consideration (Article 3); the right to life, survival and development (Article 6), and the right to express a view and have that view taken into account (Article 12).

4. *Civil rights and freedoms*

This cluster focuses on children's civil rights and freedoms including children's right to move freely in public space, to access information and to privacy.

5. *Violence against children*

This cluster focuses on violence against children including abuse and neglect and the right not to be subjected to inhuman or degrading treatment or punishment.

6. *Family environment and alternative care*

This cluster focuses on the family environment, the right of children to be well cared for if they live apart from their parents, and the right to be protected from all forms of violence and abuse.

7. *Basic Health and welfare*

This cluster focuses on the health and welfare of all children and the consideration of disabled children's rights.

8. *Education, leisure and culture*

This cluster focuses on the right of all children to have a right to an

education that will help them achieve their potential without discrimination.

9. *Special protection measures*

This cluster focuses on groups of vulnerable and marginalised children who require special protection.

Potential links between Part 1 and Part 3 (Children’s Services Planning) of the Act

73. Some public authorities to which Part 1 applies will also be subject to duties under Part 3 (Children’s Services Planning); in particular, local authorities and health boards. Children’s Services Plans seek to improve outcomes for all children and young people through the delivery of services that will support their wellbeing, promote early intervention and preventative approaches, demonstrate best use of resources, and allow for the better planning and coordination of those services.

74. There is no requirement within Part 3 for local authorities and relevant health boards to adopt a child’s rights-based approach within their children’s services planning process or to link with the Part 1 duty described in this guidance. However, given the complementary timescales, the fact that both Part 1 and 3 duties fall on local authorities and health boards, and that Part 1 permits the publication of joint reports, alignment of the Part 1 and Part 3 duties may benefit both processes by providing a structure within which to plan, review and report on children’s rights, cementing the link between the two. A local authority and health board could, for instance, decide to report annually on children’s rights and incorporate this within their annual children’s services plan report (required under section 13 of the Act). Alternatively, they could incorporate their children’s rights report into the final annual report of the children’s services planning cycle (which is linked to the same 3 year period as Part 1).

75. With its focus on “wellbeing”, children’s services planning already puts children’s rights at the heart of the planning and delivery of children’s and related services. Children’s services planning presents a local authority and relevant health board with a valuable opportunity to give these rights real articulation in practice. For instance, a local authority and its relevant health board could, in consultation with its partners and community, choose to set themselves an aim, within their Children’s Services Plan, to “secure better or further effect of, children’s rights”. Their plan could then set out the steps to be taken, over the 3 year period, to achieve this aim and how it will be monitored, and, as mentioned above, annual reports could document progress.
76. However, it is important to note that although Part 1 and Part 3 duties could be aligned, attention would need to be given to the scope and extent of children’s rights, with consideration given to the interaction between the UNCRC and the wellbeing indicators (see Appendix 3, “Links between Wellbeing Indicators and the Articles of the UNCRC”).
77. Whether or not public authorities align their Part 1 and Part 3 reporting, local authorities and health boards will need to consider if there are any areas of children’s rights not covered by their children’s and related services, noting the definitions set out by Scottish Ministers (under section 7(1))²¹. This may include, for example, children whose rights and wellbeing are affected due to the circumstances of their families (e.g. where a parent is in prison). (For further examples see Publication of the Report.)
78. For further information on Children’s Services Plans, please refer to the guidance on Part 3 (Children’s Services Planning) of the Act.

²¹ “Children’s service” – a service which is provided wholly or mainly to, or for the benefit of, children (or a specific group thereof, such as looked after children or children with a disability); and “related service” – a service which, while not falling into the above category, is still capable of having a significant impact on children’s wellbeing.

Potential links to other plans

79. It may be helpful for public authorities to align Part 1 duties with other legislation requiring them to both consult and publish reports, for example, the Joint Working (Public Bodies) (Scotland) Act 2014, the Community Empowerment (Scotland) Act 2015 as well as Parts 3 and 9 (Children’s Services Plans and Corporate Parenting) of the Act.

80. Such an approach could help avoid duplication of effort and maximize the use of available resources (an ambition of the Christie Commission). It could also assist the achievement of the Scottish Government’s National Outcome of making “our public services, high quality, continually improving, efficient and responsive to local people’s needs”.

A FRAMEWORK FOR CHILDREN’S RIGHTS REPORTING

81. This chapter of the guidance sets out a potential framework for reporting on children’s rights. The framework takes a child rights-based approach using the clusters of the Articles of the UNCRC. It provides practical detail to support its application.

Using the UNCRC clusters to prepare Children’s Rights Reports

82. Using the UNCRC clusters is an internationally recognised approach to the implementation, monitoring and reporting of children’s rights²², and it therefore provides a useful approach to the development of statutory Children’s Rights Reports. For the purposes of children’s rights reporting, the clusters are described below in terms of “what” and “how” public authorities should do to implement rights.
83. When reviewing the clusters, public authorities may wish to consider which clusters (if not all) apply to their role and responsibilities. Some will apply to all public authorities while others may be more applicable to some public authorities than others. For example, the clusters General Measures of Implementation and General Principles will apply to all public authorities because the focus is on protection and promoting knowledge of children’s rights and the main principles of non-discrimination, best interests, survival and development and right to be heard. Other cluster areas may be more (but not necessarily solely) applicable to a specific public authority – for example, Family Environment and Alternative Care or Education and Leisure will be core to the responsibilities of a local authority.

²² UNICEF Implementation Handbook for the Convention on the Rights of the Child; Full Revised Third Edition http://www.unicef.org/publications/index_43110.html.

84. The “UNCRC requirements” in section 4 of the Act means the rights and obligations set out in Part 1 of the Convention and certain articles of the first and second Optional Protocols to the UNCRC²³. There is no duty on public authorities to report on compliance with matters which fall outwith this definition. The clusters below therefore focus on the rights set out in Part 1 of the Convention. Public authorities should also consider if the relevant articles of the first²⁴ and second Optional Protocols²⁵ are relevant to their activities. In these instances, reporting could be included in a relevant cluster or as additional information.
85. Public authorities may wish to make explicit links in reporting on children’s rights with the wellbeing indicators. A table linking the SHANARRI indicators with examples of Articles of the UNCRC is at Appendix 3. This list is not exclusive or exhaustive. Public authorities should therefore consider if other UNCRC Articles are relevant by referring to the UNCRC requirements as defined in the Act.
86. Public authorities should consider the most appropriate approaches to ensuring that the framework they use takes account of children and young people with diverse experiences, views and circumstances, with specific attention being paid to children and young people who are marginalised and/or from a minority group.

UNCRC clusters

87. A summary of each UNCRC cluster (and associated Articles), drawing on the materials developed for the CRWIA is set out below. At the end of each cluster “reflective statements” have been included to give examples of areas that public authorities may wish to report on. These examples are illustrative

²³ Optional Protocols are additional UN legal mechanisms that complement and add to an international treaty after its original adoption <http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

²⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRRC.aspx>

²⁵ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRRC.aspx>

and are not meant to be either prescriptive or exhaustive. They should be used as a basis for further consideration and development by authorities in consultation with other stakeholders including children and young people, parents and carers, and third sector organisations.

88. Public authorities may wish to use the following questions (or similar) to consider their progress in the cluster areas:
- What do we provide or undertake in relation to this cluster/and/or UNCRC Article?
 - How are we progressing in this area of activity? What is working well and where are there gaps?
 - What evidence do we have? What is our baseline information? Is there evidence on outcomes for children and young people?
 - How is our evidence informed by the views and experiences of children and young people?
 - What next steps or actions do we need to take arising from the initial questions?

Cluster (i): General measures of implementation

89. This cluster focuses on what government is expected to do to implement the UNCRC through law, policy and decisions which impact on children. It applies to legal measures (through legislation). It also applies to non-legal measures which progress implementation of the Convention including: national strategies and action plans; resource allocation and monitoring; children's rights training, awareness-raising and capacity-building; development and collection of data on children's lives; collaboration with all sectors including children. The specific relevant UNCRC Article is: protection of rights (Article 4): ensuring that the UNCRC rights are implemented through legislation and other measures (to the maximum extent of available resources).

[See table overleaf]

Examples of reflective statements: (i) General measures of implementation

We ensure that our visions and values promote the rights of the child and that these are reflected in all our public documents and statements (Article 4).

We are committed to the implementation of UNCRC rights, through complying with rights provisions and duties within the 2014 Act and other relevant legislation and policy as identified (Article 4).

We proactively consider children's rights in service planning, engaging with and undertaking consultation with relevant stakeholders (including children and young people and parents/carers) (Article 4).

We ensure that the services we provide for children and young people conform to established national standards and provide high quality services and staffing (Article 4).

We have a skilled and competent workforce committed to upholding children's rights. Training on children's rights is available to our staff and elected members (where appropriate) and is provided for those in senior, managerial and practitioner roles and takes into account the Common Core (Article 4).

With reference to policy and service delivery, we take our commitment to children's rights into account in decisions on resource allocation (Article 4).

90. Article 42 (knowledge of children's rights: making the principles and the provision of the UNCRC widely known) and Article 44(6) (implementation measures: making reports on implementation widely known) are relevant to the General Measures of Implementation cluster. They are not included here as they do not form part of the UNCRC requirements under the Act. Public authorities are therefore not under a duty to report on these in terms of section 2(1).

Cluster (ii): General principles of the UNCRC

91. This cluster focuses on the four general principles of the UNCRC:

- non-discrimination (Article 2): children should not be discriminated against;
- best interests of the child (Article 3): every decision and action must be in a child's best interests;
- survival and development (Article 6): every child has the right to life and to develop to their full potential, and
- respect for the views of the child (Article 12).

Examples of reflective statements: (ii) General principles of the UNCRC

We can demonstrate how the principle and practice of non-discrimination have been taken into account in our services (Article 2).

We can show through evidence, including disaggregated data, that children and young people from marginalised groups are able to access their rights (Article 2).

We respect children and young people's rights to develop to their full potential in early learning and childcare settings, school, home and community (Article 6).

Children and young people are encouraged and supported to participate in all stages of planning, provision and delivery of our services (Article 12).

We use a range of measures to seek children and young people's views about matters that affect them and always consider the child's views in determining what is in the child's best interests (Articles 3 and 12).

We ensure that communication or learning difficulties are not considered an exception to the requirement to obtain and consider the views of the child or young person (Articles 2 and 12).

[Continued overleaf]

Children and young people have access to independent advocacy where they find it more difficult to claim their rights or if their rights have been violated (Article 12).

We signpost children and young people who want to make a complaint, and/or those acting on their behalf, to clear and transparent complaints processes (Article 3 and 12).

We ask children and their parents/carers routinely about matters that affect them and provide feedback on how their views have been acted on (Article 12).

We seek out and use examples of the best approaches to engaging with children and young people in order to support their right to have their voices heard (Article 12).

Cluster (iii): Civil rights and freedoms

92. This cluster focuses on children's civil rights and freedoms including: children's right to move freely in public space and to meet with others; children's right to think and believe what they like, to access information and speak their mind as long it is not harmful to others; children's right to keep personal matters and communications private; and their right to be protected from inhumane or degrading treatment:

- birth registration, name, nationality, care (Article 7);
- protection and preservation of identity (Article 8);
- freedom of expression (Article 13);
- freedom of thought, conscience and religion (Article 14);
- freedom of association (Article 15);
- right to privacy (Article 16);
- access to information and mass media (Article 17);
- right to education (Article 28);
- inhumane treatment and detention (Article 37), and
- recovery and rehabilitation of child victims (Article 39).

Examples of reflective statements: (iii) Civil rights and freedoms

We support children and young people's freedom of association through the provision of public spaces where they can meet safely (Article 15).

Information sharing is proportionate and appropriate and complies with the Data Protection Act while recognising a child's right to privacy (Article 16).

Information materials are available in a range of formats and in specific settings in order to meet the needs of individual children and young people (Article 17).

Children and young people are not subject to any form of treatment, which is deemed to be inhuman or degrading and have access to legal and other assistance in instances where they are detained (Article 37).

Cluster (iv): Violence against children

93. This cluster focuses on situations where children experience violence in all its forms including physical and mental violence, abuse and neglect, maltreatment and exploitation including sexual abuse; it highlights the right of children to services which support their physical and psychological recovery; and emphasises that children should not be subjected to torture or to other cruel, inhuman or degrading treatment or punishment including physical or corporal punishment:

- protect from all forms of violence (Article 19);
- promote physical and psychological recovery (Article 39);
- no child subjected to cruel, inhuman or degrading treatment (Article 37(a)), and
- school approaches to managing behaviour and discipline (Article 28(2)).

[See table overleaf]

Examples of reflective statements: (iv) Violence against children

We provide support to promote children and young people's recovery from their experience of violence including abuse and neglect, maltreatment and exploitation (Article 39).

We seek and take account of children and young people's views prior to making decisions in child protection and other processes (Article 12).

Approaches to managing behaviour and discipline in school and in other settings such as residential care and foster care are appropriate and positively support children and young people (Article 28 (2)).

We take measures to ensure that no form of cruel, inhuman or degrading treatment to children is tolerated in our services (Article 37 (a)).

Cluster (v): Family environment and alternative care

94. This cluster focuses on: the primary role of parents and the support parents should have to bring up their children; the right of children to not be separated from parents unless this is in their best interests; the right of children to be well cared for where they live apart from their parents; the right of a child to maintain contact with both parents if that is in their best interests; the right of a child to have a say when decisions are made about where they should live, with placements subject to regular review; and the right of all children to be protected against all forms of violence and abuse:

- parental guidance and a child's evolving capacities (Article 5);
- separation from parents (Article 9);
- family reunification (Article 10);
- abduction and non-return of children (Article 11);
- parental responsibilities and state assistance (Article 18(1-2));
- protection from all forms of violence (Article 19);

- children deprived of a family (Article 20);
- adoption (Article 21);
- review of treatment in care (Article 25);
- adequate standard of living (Article 27), and
- recovery and rehabilitation of child victims (Article 39).

Examples of reflective statements: (v) Family environment and alternative care

We take into account children's evolving capacities, making sure that all younger children are able to access their rights (Article 5).

We seek and take account of children and young people's views prior to making decisions that affect them (Article 12).

Children and young people who are looked after have access to the services they need and have a say in decisions about where they live (Article 9).

Young people who are moving onto independence but continue to require our services, have access to the support they need (e.g. care leavers or disabled young people) (Article 5).

We provide support and services to parents/carers in order that they can care for their children (Article 18).

We provide support to children and young people who experience complex family circumstances (e.g. young carers; children with experience of domestic abuse; children who have a parent in prison) (Article 18).

Our management team is informed of their duties and fulfils their responsibilities as corporate parents (Article 18).

All placements of children and young people who are looked after are subject to regular review (Article 25).

Cluster (vi): Basic health and welfare

95. This cluster focuses on the health and welfare of all children and the consideration of disabled children's rights. All children should have the best possible standard of health, including access to relevant health services. There should be a focus on the determinants of children's health, including mental health. Under Articles 26 and 27, where families do not have enough to live on, children have a right to financial support from the Government to meet their basic needs. The cluster includes:

- life, survival and development (Article 6);
- parental responsibilities and state assistance (Article 18(3));
- children with disabilities (Article 23);
- health and health services (Article 24);
- social security (Article 26);
- adequate standard of living (Article 27 (1-3)), and
- drug abuse (Article 33).

[See table overleaf]

Examples of reflective statements: (vi) Basic health and welfare

We provide early learning and childcare services which benefit both children and their parents/carers (Article 18).

We actively promote the right of disabled children to have access to a range of services and have choice and control over the services they receive e.g. education, health care, play and leisure services etc (Article 6 and 23).

We ensure that children and young people have access to the high quality health care they need and this extends to preventative health care services (Article 24).

We ensure that children and young people with long term health conditions have access to the services and support they need (Article 24).

We provide resources and support for children and young people in order to meet their mental health needs (Article 24).

We provide support to children and families, where this is within our authority responsibilities, to meet children's essential needs in relation to food, clothing and housing (Article 27).

Cluster (vii) Education, leisure and culture

96. This cluster focuses on the right of all children to an education that will help them achieve their potential without discrimination. Education should be child-centred and empowering and strengthen their capacity to enjoy the full range of children's human rights including their right to express their views and participate in all aspects of their education. Article 29 entitles children to a broad curriculum. Article 31 states that children have a right to play, recreational activities, rest and leisure and to take part in cultural life.

The cluster includes:

- the right to education (Article 28);
- the goals of education (Article 29);
- children of minorities/indigenous groups (Article 30); and
- leisure, play and culture (Article 31).

Examples of reflective statements: (vii) Education, leisure and culture

We aim to ensure that all children do not experience any form of discrimination in their education, regardless of their circumstances (Article 28).

We ensure that all children and young people access their right to an education that develops their abilities to their fullest potential (Article 29).

We ensure that early learning and childcare and school environments support children and young people's participation in all aspects of the Curriculum for Excellence (Article 28).

We provide children and young people with access to play and leisure opportunities and address barriers to inclusive play and leisure. There are sufficient high quality outdoor play and recreation places for children and young people to access including spaces suitable for disabled children and young people (Article 31).

Children and young people have access to and can participate in a range of arts and cultural opportunities (Article 31).

Cluster (viii): Special protection measures

97. This cluster focuses on groups of vulnerable and marginalised children who require special protection. These are often the children who are most at risk of having their rights ignored or infringed. They include asylum-seeking and refugee children, child victims of trafficking or exploitation, and children in trouble with the law.

98. Under Article 22, asylum-seeking children and child refugees are entitled to special protection and other UNCRC rights. The Convention states that, where possible, children should be dealt with outwith the criminal justice system and a welfare response is appropriate to meet the needs of the child. Under Article 40, children who enter the criminal justice system have a right to fair treatment and legal representation. The cluster includes:

- refugee children (Article 22);
- children of minorities/indigenous (Article 30);
- child labour (Article 32);
- drug abuse (Article 33);
- sexual exploitation (Article 34);
- abduction, sale and trafficking (Article 35);
- other forms of exploitation (Article 36);
- inhumane treatment and detention (Article 37(a-d));
- war and armed conflicts (Article 38);
- recovery and rehabilitation of child victims (Article 39), and
- juvenile justice (Article 40).

Examples of reflective statements: (viii) Special protection measures

We assess the numbers and situation of children and young people and their families who are asylum seeking and are migrants in order to provide them with services and support (Article 22).

We ensure that children and young people at risk of sexual exploitation or drug use have access to the child protection and specialist support and services they require (Articles 33 and 34).

We provide support to children and young people in response to their needs so that they do not enter the criminal justice system, as far as possible (Articles 37 and 40).

We ensure that children and young people who enter the criminal justice system have the right to legal representation and fair treatment (Article 40).

PROCESS OF PREPARING A CHILDREN'S RIGHTS REPORT

Developing baseline information

99. In order to produce Children's Rights Reports, public authorities should consider how they will establish appropriate and measurable baseline data on meaningful outcomes that will inform the reports.
100. The importance of collecting baseline information is highlighted by the UN Committee on the Rights of the Child which recommends that there is "collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights"²⁶.
101. The duty under Part 1 of the Act applies to reporting. However, it is unlikely that this duty can be fulfilled without consideration of wider public authority responsibilities in relation to planning, systematic collection of baseline information and monitoring. It is, therefore, recommended that the processes relating to gathering information for children's rights reporting are aligned with other existing processes where possible, particularly with respect to the duties under Part 3. This will assist in evidencing change, and support public authorities in considering how to report on children's rights. It will also avoid duplication of activities and promote better integration between different processes and duties.
102. Baseline information, evidence and data are likely to be readily available through existing sources within the public authority or through other authorities. In some areas of children's rights, additional evidence might require to be gathered.
103. Public authorities are encouraged to consider the following in collecting evidence:

²⁶ Para 48, General Comment No. 5 on the General Measures of Implementation of the UNCRC.

- the number of children and young people affected by specific areas of children’s rights that fall within the responsibility of the public authority, by their age, gender, ethnicity, disability, and deprivation levels;
- whether evidence exists for all groups of children and young people;
- the views and experiences of children and young people in the areas being considered;
- information collected by other relevant agencies or services;
- whether specific questions can be added to broad public consultations, and
- whether commissioning and undertaking additional evidence collection is necessary where there may be significant gaps.

Consultation and engagement

104. Public authorities may wish to consider how they will undertake consultation and engagement exercises. This should include the staff of public authorities as well as other stakeholders including other authorities, third sector organisations and wider civic society as well as children and young people and parents and carers. This engagement could assist in establishing benchmarking processes and baseline information. It could also help in beginning to identify local priorities and particular areas or issues of concern.

105. Establishing consultation and engagement processes at an early stage of preparing Children’s Rights Reports is likely to be beneficial in gaining the support and expertise of stakeholders and in gathering evidence and baseline information.

106. National organisations which are public authorities under the Act should consider the most appropriate way to report according to their duties and responsibilities. It is suggested that a national public authority should report as a national organisation, contributing to and taking account of local reports where they provide a service in that area.

Involving children and young people in preparing Children's Rights Reports

107. The participation of children and young people in all decisions that affect them and in the processes, systems and services that they access is an underpinning principle of the UNCRC, specifically emphasised in Article 12 (a child's right to be heard). It is a commitment that the Scottish Government has provided leadership for through its approach to policy making and implementation. Public authorities have also demonstrated their commitment to the involvement of children and young people through their support for structures and mechanisms that enable children and young people to participate.
108. The commitment to involving children and young people is also highlighted in other parts of the Act and associated guidance (e.g. Part 3 on Children's Services Plans). It is endorsed by GIRFEC which aims to ensure that all children and young people are supported as they grow and develop into successful learners, confident individuals, effective contributors and responsible citizens²⁷ and that children and young people have a voice, are involved in decisions that affect them and are respected.
109. Children's Rights Reports should engage with children and young people in line with a rights-based approach. This means that public authorities are expected to consider at an early stage how children and young people will be meaningfully involved, taking account of diverse experiences, views and circumstances. Approaches should be inclusive so that children and young people regardless of age, disability, communication needs and circumstances can take part (see also Appendix 4).
110. Many authorities will already have the existing structures to support the engagement of children and young people e.g. local youth councils, pupil councils, young people-led organisations, young people's committees and other formal or informal structures. In addition, third sector organisations also

²⁷ <http://www.gov.scot/Topics/Education/Schools/curriculum>

have extensive experience in supporting the participation of children and young people. These structures and organisations can help public authorities in ensuring children and young people contribute to, and inform, children's rights reporting.

Informing children, families, communities and practitioners

111. The 3 year reports on children's rights will provide a valuable resource for public authorities and for the communities they serve including children and young people, parents and carers, practitioners, other authorities, third sector organisations and wider civic society.

112. In order to support this process, public authorities may wish to develop further specific information on the new duty on public authorities under Part 1 of the Act at the local level to support wider understanding of the operation of the new provisions among children and young people, families, communities and practitioners.

Governance

113. As well as determining timescales for the collection and analysis of data ahead of publication of the report, authorities will need to have in place robust governance and accountability processes in terms of both demonstrating their role as duty bearers in relation to children's rights, and contributing to children's rights reporting. Public authorities should ensure that their staff have the opportunity to be informed about, understand and can demonstrate their role as duty bearers in relation to children's rights.

Training and professional development

114. Governance responsibilities may require training and/or professional development. Public authorities may have post-holders with expertise in children's rights, participation or support to children and young people (e.g. Children's Rights Officers or other rights-focused posts) who can provide

organisational expertise to support the development of Children's Rights Reports.

115. The Common Core²⁸ describes the skills, knowledge, understanding and values that everyone should have if they work with children, young people and families. It is an approach that works through the existing range of services that support children and young people, particularly the universal services of health and education, building on what practitioners and families recognise as the good practice that already exists in how those services are delivered.
116. The Common Core skills, knowledge and understanding are explicitly cross-referenced to the guiding principles of the UNCRC (non-discrimination; best interests of the child; right to survival and development and respect for the views of the child). This approach emphasises that observing and promoting the UNCRC need not be complicated and is fundamental to work with children and young people. It suggests that the Common Core can be used as a starting point for self-reflection and discussion on how to strengthen the use of UNCRC principles. It is, therefore, a useful resource for public authorities to support the development of Children's Rights Reports.
117. Public authorities may wish to undertake an assessment of what training and professional development is currently in place to support their role as duty bearers for children's rights. They may then wish to consider what training and professional development in children's rights should be made available to support staff and facilitate the development of the reports.

²⁸ <http://www.gov.scot/Publications/2012/06/5565>

PUBLICATION OF THE REPORT

118. Section 2(1) of the Act refers to publication of the Children’s Rights Report “as soon as practicable” after the end of the 3 year period. Authorities will need to consider other duties and responsibilities that will fall upon them at or around that time. Long term planning will assist in this process, especially if authorities are seeking to maximise effort by combining and/or aligning reporting mechanisms and processes.
119. Public authorities should also create opportunities for children and young people, families, communities, practitioners and civic society to be engaged in scrutinising the findings of Children’s Rights Reports once they are published. This process of scrutiny should also provide mechanisms for evaluative feedback which can inform the next process of developing Children’s Rights Reports.

Publication of joint reports by two or more authorities

120. Section 2(3) permits “two or more authorities to which this section applies” to publish a joint report. This provision was included in the legislation to facilitate maximisation of resources and avoid duplication of effort, and could include a range of arrangements.
121. Public authorities publishing joint reports should also ensure that accessible child- and young person-friendly formats of the reports are available to all children and young people.

Structure and format of reports

122. Section 2(1) requires the report to be published “in such manner as the authority considers appropriate”. Whilst the Act does not prescribe the format, structure or length of Children’s Rights Reports, the framework described above provides authorities with an outline structure, using the UNCRC clusters and suggestions for key considerations. The reports

should explicitly draw on the views and experiences of children and young people as well as other evidence from a range of sources that explores progress or areas where improvement is required in realising children's rights. Appendix 4 has further detail on involving children and young people in Children's Rights Reports.

123. It is important that the steps public authorities have taken to "secure better or further effect" of children's rights under their duties in relation to the UNCRC requirements are clearly delineated within the report. The phrase "secure better or further effect" is not defined in the Act so these words take their ordinary meaning. In considering what steps have been taken, public authorities may find it helpful to refer to the questions and examples of reflective statements contained within the Framework for Children's Rights Reporting.

124. Where a child rights-based approach is taken to the development of Children's Services Plans, this may help to meet the needs of the Children's Rights Reports. However, duty bearers would also need to reflect on what steps have been taken to further children's rights that fall out with the remit of Children's Services Plans.

125. For example, local work connected with the scope of Part 1 (but not necessarily Part 3) might be evidenced by investment in improving street lighting, where the benefits are seen in terms of children's and families' safety as well as the wider population. Beyond "children's services" and "related services" that are the subject of Part 3 reporting, local planning relating to housing, and improving safety and access could be featured as part of meeting Part 1 duties, by both improving local places and amenities for everyone including children, and helping to address concerns about young people involved in anti-social behaviour and youth crime.

126. Longer term, Part 1 of the Act might support public authorities to launch new rights promoting initiatives in support of their wider UNCRC

responsibilities that are more creative and ambitious. So their Part 1 reporting might also be able to include, for example:

- Involving children and young people in the development of a new hospital ward, designing a school, or creating a child-friendly public space where children and young people can congregate;
- Children and young people contributing to the content of new professional training and qualifications, or
- Children who have experience of crime informing new initiatives taken forward by the children's hearing system and police.

127. Of course participation by children and young people (Article 12) in the development of any policy, service or plan, and its monitoring, can also contribute to Child Rights and Wellbeing Impact Assessments (CRWIA).

The structure and format of the Children's Rights Report could include:

- high level statements of ambition and intent relating to the UNCRC;
- baseline information about the population and situation of children and young people;
- analysis of changes over time and monitoring of progress relating to the public authorities' responsibilities in realising children's rights;
- areas where children's rights have not progressed and there are gaps and where improvements are required;
- examples of effective practice, and
- what is to be done by whom and when as a result of the report.

128. Consideration should be given to producing the reports in a variety of formats, taking account of a range of age-related and communication needs, including traditional formats and non-traditional formats such as social media. The production of the report should take into account the range of stakeholders that should have access to, and will have an interest in, the Children's Rights Report. The report should be accessible to children and young people and parents and carers.

SCOTTISH GOVERNMENT ROLE/RESPONSIBILITIES

List of public authorities covered by the duties of Part 1, section 2

129. Section 3(2)(a)(b) and (c) enables Scottish Ministers by secondary legislation to use Order making powers to add, remove or vary the list of persons and organisations listed in schedule 1 of the 2014 Act and who are thereby covered by the duty in Part 1, section 2.
130. At the time of the publication of this guidance, the Scottish Government, following discussion with stakeholders, has decided not to exercise this power at present. It is felt that the list of persons and organisations in schedule 1 is comprehensive and sufficiently covers all the necessary and relevant public bodies that need to be engaged in the process of promoting and enacting children's rights in Scotland.

Scottish Government's interaction with authorities' reports

131. It is the intention of Scottish Government that the Children's Rights Reports are made public. Authorities are not required to submit reports to Government directly.
132. Scrutiny of, observation and comment on the reports is intended to come from children and young people themselves, families, practitioners, the wider community, public bodies and civic society. Public authorities may find it helpful to give consideration on how, or if, they intend to respond formally and publicly to such scrutiny.
133. Scottish Ministers will continue to contribute to the UK Report to the UN Committee on the Rights of the Child as well as publishing their own separate report under Part 1. As part of the process of utilising evidence from different sources, the Scottish Government may cite and illustrate activity within Scotland by reference to the reports prepared by authorities,

within both their own report and in their submission to the UK Report. Permission will be sought for specific mentions of activity relating to an authority and with full acknowledgment of their role.

APPENDIX 1: PART 1: REPORTING REQUIREMENTS

Children's Rights	
Legislation	Part 1, Children and Young People (Scotland) Act 2014
Purpose	To reflect the role of the United National Convention on the Rights of the Child (UNCRC) in influencing the design and delivery of policies and services in Scotland.
dddd	<ul style="list-style-type: none"> a) A local authority b) Children's Hearings Scotland c) Scottish Children's Reporter Administration d) A health board e) A "special health board" (A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978) f) Healthcare Improvement Scotland g) Scottish Qualifications Authority h) Skills Development Scotland i) Social Care and Social Work Improvement Scotland (Care Inspectorate) j) Scottish Social Services Council k) Scottish Sports Council (SportScotland) l) Chief Constable of the Police Service of Scotland m) Scottish Police Authority n) Scottish Fire and Rescue Service o) Scottish Legal Aid Board p) Mental Welfare Commission for Scotland q) Scottish Housing Regulator r) Bord na Gaidhlig s) Creative Scotland t) An integration joint board to which functions in relation to persons under 18 years of age are delegated in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014. [inserted by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications and Saving Order 2015 (SSI 2015/157
Other organisations and persons to be involved (at certain stages)	N/A

Scope of plan	N/A (No plan required)
Aims of plan	N/A (No plan required)
Timespan of plan	N/A (No plan required)
Review of plan	N/A (No plan required)
Reports	<p>As soon as practicable after the end of each 3 year period, the relevant public bodies (listed above) must publish, in such a manner as they consider appropriate, a report on what steps they have taken in that period to secure better, or further effect within its areas of responsibility, of the UNCRC requirements.</p> <p>Two or more of the public bodies (listed above) may publish a report jointly.</p>
Submit reports / information to Scottish Ministers	No. (However, every 3 years Scottish Ministers must lay before the Scottish Parliament a report detailing what steps they have taken to secure better, or give effect further to, the UNCRC requirements in Scotland, and their plans for the next 3 years; to inform this process. Scottish Ministers may use the Children's Rights Reports of public bodies.)

APPENDIX 2: HUMAN RIGHTS TREATIES

UNCRC and Scottish legislation

134. The UK Government ratified the UNCRC in 1991. Although it is the UK that is the state party to the UNCRC, the Convention and its Articles are reflected in many aspects of existing Scottish legislation. For example, “best interests” (Article 3) is reflected through provisions that treat welfare as “the paramount consideration” in the Children (Scotland) Act 1995 and Children’s Hearings (Scotland) Act 2011. The importance of the child’s voice being heard (Article 12) is reflected through the 1995 Act obligation on those fulfilling a parental responsibility, and on courts, to give children the opportunity to express their view, and to have regard to their view taking into account the child’s age and maturity. The Standards in Schools (Scotland) Act 2000 provides that it shall be “the right of every child of school age” to have a school education provided (or arranged by) the State and repeats parts of the provisions of Article 29 of the UNCRC.
135. For additional information on the links between children’s rights and Scottish legislation see the Scottish Government’s “Children’s Rights Legislation in Scotland: A Quick Reference Guide”, produced to accompany the [CRWIA guidance](#). A [CRWIA](#) has been undertaken as part of the policy development of Part 1, and is illustrative of the use of the UNCRC as the framework for reporting.

UK and Scottish Government reporting on international human rights treaties

136. The UK is signatory to seven “core” United Nations human rights treaties, including the International Covenants on Civil and Political Rights (ICCPR), and on Economic, Social and Cultural Rights (ICESCR) as well as conventions against torture (CAT), racial discrimination (ICERD) and discrimination against women (CEDAW), and conventions on the rights of the child (UNCRC) and the rights of persons with disabilities (UNCRPD) (see below for list of treaties).

137. On a 4-7 year cycle, the UK submits reports to the relevant UN Committee on its implementation of each treaty. These reports address both reserved and devolved matters and usually incorporate contributions from the Scottish Government. After considering evidence from a range of sources, including an interactive dialogue with representatives from the UK, the Committee issues a set of [Concluding Observations](#) and recommendations on how the UK can make progress in implementing the particular Convention and upholding its international obligations. Several of the recommendations relate to matters for which the Scottish Government is responsible in Scotland. As well as the Convention on the Rights of the Child, recommendations concerning children's rights have been made by UN Committees during reviews of the UK under other treaties, such as ICCPR, ICESCR, the UN Convention against Torture and the UN Convention on the Elimination of all forms of Discrimination against Women. Other UN member states also made recommendations concerning children's rights during the UK's last overarching review of its human rights record under the Universal Periodic Review process in 2012.
138. The UN Committee on the Rights of the Child has responsibility for overseeing compliance with the UNCRC in all 195 states that have ratified it, and takes evidence regarding implementation in the UK approximately every 5 years. The most recent [Concluding Observations](#) focusing on the UK were published in 2016.
139. In 2009 the Scottish Government published "[Do the Right Thing](#)"²⁹, its response to the 2008 Concluding Observations of the UN Committee on the Rights of the Child. This was a clear commitment by the Scottish Government to account for actions to further promote children's rights. As part of that commitment the Scottish Government subsequently published a Progress Report³⁰ in 2012 on the progress made since the 2009 document. It gave a further commitment to demonstrate the importance the Scottish Government places on children's rights through the promise to publish similar reports in the future.

²⁹ <http://www.gov.scot/Publications/2009/08/27111754/0>

³⁰ <http://www.gov.scot/Resource/0039/00392997.pdf>

140. The [Fifth Periodic report to the UNCRC](#)³¹ was published by the UK Government in May 2014. As the UK Report covers the whole of the UK it has limited information on Scotland. The Scottish Parliament and the Scottish Government have devolved powers in respect of the majority of areas which impact on children and families, including health, social care and justice. As such the Scottish Government published its own Report as part of its submission to the UK Report in June 2013³². However, the UK Government retains control over a number of reserved matters. This limits the extent to which the Scottish Government and Scottish Parliament can give effect to the UNCRC. Nevertheless, steps have been taken to strengthen the delivery of person-centred public services in Scotland, often differing to other parts of the UK. One of those steps is Part 1 of the Act.
141. The UNCRC is the only international Human Rights Treaty which expressly gives Non-Governmental Organisations (NGOs) a role in monitoring its implementation. NGOs are encouraged to submit reports to the Committee on the Rights of the Child about the implementation of the UNCRC. Other UN Committees have, however, recommended similar measures as part of their concluding observations e.g. the 2016 [Concluding Observations](#) from the Committee on Economic, Social and Cultural Rights: “The Committee also encourages the State party to engage non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report”.

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http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2f5&Lang=en

³² <http://www.gov.scot/Resource/0042/00426765.pdf>

Together (Scottish Alliance for Children’s Rights)

142. Together (Scottish Alliance for Childrens Rights) is an alliance of Scottish NGOs whose work impacts on children and young people. Together works to improve the awareness, understanding and implementation of the UNCRC. As part of its activity, the organisation reports to the UN on behalf of children’s organisations across Scotland with the most recent report produced in 2015.³³ Together also publishes its annual “[State of Children’s Rights in Scotland](#)”³⁴ report with the most recent published in November 2016. The Scottish Government welcomes Together’s, and other NGO’s independent perspectives on how far children in Scotland are able to enjoy and exercise their rights.

Human Rights Act 1998 (section 6)

143. The Human Rights Act 1998 is an Act of the Westminster Parliament and came into force on 2 October 2000. The Act gives further effect to rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) by incorporating certain core ECHR rights (“the Convention rights”) into domestic law. It makes it unlawful for a UK public authority to act incompatibly with the Convention rights and allows for a case to be brought in a UK court or tribunal against the authority where it does so.

The European Convention on Human Rights (ECHR)

144. The ECHR is a treaty of the Council of Europe. It was adopted in 1950, ratified by the Westminster Parliament in 1951, and came into force in September 1953. It has now been ratified by 47 states. The Convention guarantees a series of rights and freedoms, many of which have a direct impact on the rights of children including:

³³ <http://www.togetherscotland.org.uk/news-and-events/news/detail/?news=916>

³⁴ <http://www.togetherscotland.org.uk/pdfs/SOCRRTTogetherReport2014.pdf>

- the right to life (Article 2);
- the right to freedom from torture and inhuman or degrading treatment or punishment (Article 3);
- the right to freedom from slavery, servitude and forced or compulsory labour (Article 4);
- the right to liberty and security of person (Article 5), and
- the right to access to education (Protocol 2, Article 1).

145. All public authorities have a positive obligation to ensure that respect for human rights is at the core of their day to day work. The Human Rights Act underpins this by making it unlawful for a public authority to act (or fail to act) in a way which is incompatible with a Convention right.

146. Human rights in Scotland are further protected by the Scotland Act 1998. Under that Act, the Scottish Parliament has no power to pass legislation that is incompatible with the ECHR. If the Parliament were to do so, the incompatible aspects of the provisions would be invalid. The Act also provides that the Scottish Ministers have no power to make subordinate legislation which is incompatible with a Convention right, or act in any other way which would be incompatible.

Scotland's National Action Plan for Human Rights

147. Following a development phase coordinated by the Scottish Human Rights Commission, Scotland's National Action Plan for Human Rights (SNAP) was launched in December 2013 as a roadmap for the progressive realisation of international human rights standards.³⁵ The Scottish Government is committed to working with the whole of Scottish society to deliver a shared vision of a Scotland where everyone can live a life of human dignity.

³⁵ <http://www.snaprights.info/what-is-snap/read-snap-in-full>

148. SNAP adopts a three pillar approach: the creation of a better culture, enabling people to lead better lives, and contributing to a better world. Human Rights Action Groups have been formed to take work forward, involving public, private and third sector organisations alongside wider civic society.
149. The first SNAP Annual Report was published on 26 November 2014 and outlines how partners have been moving forward, with a particular focus on establishing implementation groups, bringing organisations together, seeking to shape existing strategies and plans, and developing a coherent outcomes framework.³⁶ The second SNAP Annual Report was published in December 2015, maintaining a focus on how human rights can tackle and overcome barriers to everyone accessing and realising their human rights.³⁷ A [third SNAP Annual Report](#), published in December 2016, summarises activities during 2016 and looks ahead to 2017 and beyond.³⁸

List of international human rights treaties:

- [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD) (1965)
- [International Covenant on Civil and Political Rights](#) (ICCPR) (1966) and its Optional Protocols (1976 and 1989)
- [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) (1966) and its Optional Protocol (2008)
- [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW) (1979) and its Optional Protocol (1999)
- [Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) (CAT) (1984) and its Optional Protocol (2006)
- [Convention on the Rights of the Child](#) (UNCRC) (1989) and its Optional Protocols (2000, 2000 and 2011)

³⁶ <http://www.snaprights.info/what-is-snap/year-one-report>

³⁷ <http://www.snaprights.info/what-is-snap/year-two-report>

³⁸ http://www.snaprights.info/wp-content/uploads/2016/12/SHRC_SNAP_Year_Three_report_2016.pdf

- [International Convention on the Protection and Rights of all Migrant Workers and Members of their Families](#) (ICMW) (1990)
- [International Convention on the Protection of Persons from Enforced Disappearance](#) (ICPPED) (2006)
- [Convention on the Rights of Persons with Disabilities](#) (UNCRPD) (2006) and its Optional Protocol (2006).

APPENDIX 3: LINKS BETWEEN WELLBEING INDICATORS AND THE ARTICLES OF THE UNCRC

150. The following is an extract from Scottish Government’s publication (June 2015), When and how to best use the Child Rights Wellbeing Impact Assessment (CRWIA), p35. This list is not exclusive or exhaustive and public authorities should consider if other UNCRC Articles are relevant by referring to the UNCRC itself.

Wellbeing indicator	Suggested links with articles of the UNCRC
SAFE	(11) abduction and non-return of children (19) protection from violence, abuse and neglect (22) refugee children (32) child labour (33) drug abuse (34) sexual exploitation (35) abduction, sale and trafficking (36) other forms of exploitation (37) inhumane treatment and detention (38) war and armed conflicts
HEALTHY	(3) best interests of the child (6) life, survival and development (24) health and health services (39) recovery and rehabilitation of child victims
ACHIEVING	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (18) parental responsibilities and state assistance (28) right to education (29) goals of education
NURTURED	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (5) parental guidance and a child’s evolving capacities (18) parental responsibilities and state assistance (20) children deprived of a family (21) adoption (25) review of treatment in care (27) adequate standard of living
ACTIVE	(3) best interests of the child (23) children with disabilities (31) leisure, play and culture

RESPECTED	(2) non-discrimination (3) best interests of the child (4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect those rights. parental guidance and a child's evolving capacities (8) protection and preservation of identity (12) respect for the views of the child (13) freedom of expression (14) freedom of thought, belief and religion (16) right to privacy (17) access to information; mass media (18) parental responsibilities and state assistance (30) the right to learn and use the language, customs and religion of their family.
RESPONSIBLE	(3) best interests of the child (12) respect for the views of the child (14) freedom of thought, conscience and religion (15) freedom of association (40) juvenile justice
INCLUDED	(3) best interests of the child (6) life, survival and development (18) parental responsibilities and state assistance (23) children with disabilities (26) social security (27) adequate standard of living

APPENDIX 4: INVOLVING CHILDREN AND YOUNG PEOPLE IN CHILDREN'S RIGHTS REPORTS

Children and young people's participation in Children's Rights Reports

151. Public authorities should consider how to meaningfully engage with, and support the participation of, children and young people in the preparation of Children's Rights Reports. This is in line with the principles of the UNCRC, specifically Article 12 (a child's right to be heard) and is also central to GIRFEC as well as a range of other Scottish legislation and guidance. Approaches to engagement and participation should involve children and young people who have a range of experiences, views and circumstances and should specifically take account of children and young people who may be marginalised, excluded and/or from a minority group.

Existing processes and mechanisms to support participation

152. Many authorities will already have the existing structures to support the engagement of children and young people e.g. local youth councils, pupil councils, young people-led organisations, young people's committees and other formal or informal structures. In addition, third sector organisations also have extensive experience in supporting the participation of children and young people. These structures and organisations can help public authorities in ensuring children and young people contribute to, and inform, children's rights reporting.

Children and young people's right to participate

153. The UNCRC clearly states that all children have the right to participate. There is no minimum age at which children can exercise their right to participate. Younger children should therefore be supported to have their say, in line with their evolving capacities (Article 5). Children with language, communication or learning difficulties should similarly have access to assistance so that they are able to fully participate.

How to involve children and young people

154. Public authorities may wish to explore at an early stage how to engage with children and young people. Some public authorities may not be working directly with children and young people or may not have mechanisms in place to support children and young people's participation. They may wish to work with other organisations, such as those in the third sector, that can support them. Others will have in-house experts such as Children's Rights Officers or education, childcare, play and youth staff etc. who can support the participation of children and young people.
155. There are many organisations and resources available that can support public authorities in involving children and young people. Suggested organisations and resources are included at the end of this Appendix.

Approaches to involving children and young people

156. Public authorities should consider the best approaches to involving children and young people in the preparation of Children's Rights Reports. They may wish to consider the following steps. This is not an exhaustive or prescriptive list and should be adapted to meet public authorities' needs.

Step 1: Involving children and young people

157. Public authorities should involve children and young people as early as possible in order to consult them on the best approach to developing Children's Rights Reports. Consideration should be given to ways of involving children and young people during the whole process and not solely in one-off consultation activities. This might involve establishing an advisory group of children and young people and/or more informal approaches to ongoing engagement.
158. This early engagement would benefit from working with existing structures for children and young people such as local youth councils, pupil councils, young people-led organisations, young people's committees and other

formal or informal structures. It should also include working with others such as third sector organisations that provide services and support to children and young people.

159. Children and young people who might not be included in existing formal structures and require support to participate should also have opportunities to engage in and influence the process of developing Children's Rights Reports.

Step 2: Gathering evidence from children and young people

160. Public authorities should establish what baseline information and evidence is already available which reflects the views and experience of children and young people, and where there are gaps. It is anticipated that this will include quantitative (numerical based data) and qualitative (interviews, consultations, surveys etc.) information.
161. Public authorities should consider how to gather children and young people's views and experiences to inform the Children's Rights Reports. This should be explored in consultation with children and young people. Again, this may use existing processes and structures. Attention should be given to *all* areas of children's rights that the public authority is reporting on.
162. Detailed consideration should be given to including children and young people who might: not be included or have a voice in existing structures (e.g. younger children, disabled young people, children and young people with experience of poverty and low income, young Gypsy Travellers), be vulnerable (e.g. children and young people who are looked after) or have demands which makes it difficult to participate (e.g. young carers, children affected by domestic violence, children in hospital).

Step 3: Identifying the best approaches to gathering views and experiences

163. Public authorities should consider the most appropriate approaches to gather evidence (e.g. web-based surveys, talks with school or youth groups,

special consultation events, road shows, focus groups, one-to-one interviews, arts-based approaches).

164. Consultation or engagement materials might be disseminated to children and young people through appropriate websites, schools or colleges, childcare, play and youth services or social media.
165. Engagement with children and young people should:
 - ensure that information is provided and children and young people's informed consent is sought (and parents/carers as required);
 - ensure children and young people's right to privacy, anonymity and confidentiality (in line with child protection procedures);
 - support the participation of children and young people across the age range, and
 - take into account children and young people's different communication needs (e.g. younger children, children whose first language is not English, young people with non-verbal communication needs).

Step 4: Producing child- and young person-friendly reports

166. Public authorities should explore with children and young people the most appropriate child- and young person-friendly formats for Children's Rights Reports. This could include traditional formats such as paper reports and verbal feedback and other non-traditional formats using social media and arts-based approaches.
167. Public authorities should ensure that child- and young person- friendly formats of the report are made available and accessible to all children and young people, taking account of age and different communication needs.

***Step 5: Children and young people are involved in scrutinising
Children's Rights Reports***

168. Children and young people should receive information about the outcomes of their engagement, and how their views are reflected in the Children's Rights Reports.
169. Public authorities should create opportunities for children and young people to be engaged in scrutinising the findings of Children's Rights reports and to provide mechanisms for evaluative feedback which will inform the next process of developing Children's Rights Reports.

Involving families, communities and practitioners

170. Engagement in the development of Children's Rights Report should also extend to families, communities and practitioners (both those employed by the public authority and those from the third sector or other public bodies). Public authorities should similarly explore the most appropriate ways to involve people from these different interests and at what point and how.
171. These engagement processes should take account of other commitments as outlined in the Community Empowerment (Scotland) 2015 Act and other legislation and guidance.

Additional information

172. Additional information is provided at:

- The UN Committee on the Rights of the Child, General Comment No. 12: The right of the child to be heard
<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>
- Scottish Government (2015), When and how to best use the [Child Rights Wellbeing Impact Assessment \(CRWIA\)](#)
- The Children and Young People's Commissioner Scotland, The 7 Golden Rules for Participation <http://www.cypcs.org.uk/education/golden-rules>
- The Children and Young People's Commissioner Scotland has produced a range of other useful resources on participation
<http://www.cypcs.org.uk/education/rights-resources>
- Capability Scotland, Empowered and Effective Decision-Making
<http://www.capability-scotland.org.uk/what-can-i-do-for-capability/policy-campaigns/current-research/empowered-and-effective-decision-making>
- Roshni (2015) Minority Ethnic Children and Young People's Views on Children's Rights in Scotland, Scottish Government <http://roshni.org.uk/wp-content/uploads/2013/12/UNCRC-Report-Final.pdf>
- Scottish Health Council, The Participation Toolkit
<http://www.scottishhealthcouncil.org/toolkit.aspx>

173. Further Information on involving and consulting with children and young people is also available from the following organisations:

- [Article 12 in Scotland](#)
- [Capability Scotland](#)
- [Children and Young People's Commissioner Scotland \(CYPCS\)](#)
- [Children in Scotland](#)
- [Children's Parliament](#)
- [Enable Scotland](#)
- [Scottish Youth Parliament \(SYP\)](#)
- [Together: Scottish Alliance for Children's Rights](#)

- [Who Cares? \(Scotland\)](#)
- [Young Scot](#)
- [Youthlink Scotland](#)

APPENDIX 5: HUMAN RIGHTS-BASED APPROACH

174. The PANEL principles provide a useful framework for taking forward a human rights based approach.³⁹ The PANEL principles are:
- *Participation* – People should be involved in decisions that affect their rights;
 - *Accountability* – There should be monitoring of how people’s rights are being affected, as well as remedies when things go wrong;
 - *Non-Discrimination* – Nobody should be treated unfairly because of their age, gender, ethnicity, disability, religion or belief, sexual orientation or gender identity. People who face the biggest barriers to realising their rights should be prioritised when it comes to taking action;
 - *Empowerment* – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives;
 - *Legality* – Approaches should be grounded in the legal rights that are set out in domestic and/or international law⁴⁰.
175. The PANEL principles complement the General Principles⁴¹ of the UNCRC and the General Measures of Implementation (implementing the UNCRC through law, policy and decisions which impact on children) and the wider range of UNCRC Articles. They therefore provide a useful resource for human rights-based approaches and underpin, for example, the National Health and Wellbeing Outcomes.⁴² This guidance focuses on giving effect to the UNCRC and therefore public bodies are encouraged to use the UNCRC as the framework for reporting.

³⁹ Scottish Human Rights Commission <http://www.scottishhumanrights.com/in-practice/human-rights-based-approach/>

⁴⁰ Scottish Human Rights Commission <http://www.scottishhumanrights.com/in-practice/human-rights-based-approach/>

⁴¹ UNCRC General Principles: Non-discrimination, best interests, survival and development, and right to have views heard.

⁴² National Health and Wellbeing Outcomes: A framework for improving the planning and delivery of integrated health and social care outcomes <http://www.gov.scot/Publications/2015/02/9966/downloads> (see p14-16).

176. A [CRWIA](#) has been undertaken as part of the policy development of Part 1, and is illustrative of the use of the UNCRC as the framework for reporting.

APPENDIX 6: FURTHER INFORMATION

UN Convention on the Rights of the Child

- Convention on the Rights of the Child
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CR.aspx>
- United Nations Committee on the Rights of the Child - [Concluding Observations 2016](#)
- United Nations Committee on the Rights of the Child (2003) [General Comment No. 3 \(2003\) General measures of implementation of implementation of the Convention on the Rights of the Child \(art. 4, 42 and 44, para 6\)](#)
- United Nations Committee on the Rights of the Child (2009) General comment No. 12 (2009) on the right of the child to be heard
<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>
- United Nations Committee on the Rights of the Child (2013) General comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration
http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf
- UNICEF Implementation Handbook for the Convention on the Rights of the Child (3rd edition) http://www.unicef.org/publications/index_43110.html

Scottish Government information and publications

- [CRWIA for Part 1](#), undertaken by an independent consultant.
- Children's Rights
<http://www.gov.scot/Topics/People/Young-People/families/rights>
- The Fifth UK Government Report to the UN Committee on the Rights of the Child: Scottish Government Submission
<http://www.gov.scot/Resource/0042/00426765.pdf>
- UK Government Periodic Report to the UN Committee on the Rights of the Child (2014)
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2f5&Lang=en

Do the Right Thing - a progress report on the Scottish Government's response to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

<http://www.gov.scot/Publications/2012/05/3593>

- Scottish Government (June 2015), When and how to best use the Child Rights Wellbeing Impact Assessment
<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights- wellbeing-impact-assessment>
- Scottish Government (September 2015) Children's Rights Legislation in Scotland: A Quick Reference Guide
<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights- wellbeing-impact-assessment>
- Children and Young People (Scotland) 2014 Act
<http://www.gov.scot/Topics/People/Young-People/legislation/proposed-bill>
- Getting It Right For Every Child (GIRFEC)
<http://www.gov.scot/Topics/People/Young-People/gettingitright>
- Wellbeing Indicators
<http://www.gov.scot/Topics/People/Young-People/gettingitright/wellbeing>
- Common Core of Skills, Knowledge and Understanding and Values for the "Children's Workforce" in Scotland
<http://www.gov.scot/Publications/2012/06/5565>
- Elsley, S, Tisdall E.K.M., & Davidson, E. (2013) Children and Young People's Experiences of, and views on issues relating to the implementation of the United Nations Convention on the Rights of the Child, The Scottish Government
<http://www.gov.scot/Resource/0042/00427287.pdf>
- Health and Social Care Alliance Scotland (2015) Disabled Children and Young People's Views on Children's Rights in Scotland, Scottish Government <http://www.alliance-scotland.org.uk/what-we-do/our-work/children-and-young- people/getting-to-know-girfec/>
- Roshni (2015) Minority Ethnic Children and Young People's Views on Children's Rights in Scotland, Scottish Government
<http://roshni.org.uk/wp-content/uploads/2013/12/UNCRC-Report-Final.pdf>

Resources

- Children and Young People's Commissioner for Scotland
<http://www.cypcs.org.uk/publications>
- 7 Golden Rules for Participation
<http://www.cypcs.org.uk/education/gold-en-rules>
- Education Scotland (2015), Recognising and Realising Children's Rights
<http://www.educationscotland.gov.uk/resources/r/childrensrightsresource.asp>

- Scottish Health Council, The Participation Toolkit (2014)
<http://www.scottishhealthcouncil.org/toolkit.aspx>
- Scottish Human Rights Commission, Human Rights Approach (PANEL) (2016)
<http://www.scottishhumanrights.com/in-practice/human-rights-based-approach/>
- Together (2016) The State of Children's Rights in Scotland 2016
<http://www.togetherscotland.org.uk/pdfs/TogetherReport2016.pdf>
- UNICEF, Child Rights Partners <http://www.unicef.org.uk/child-rights-partners>

Scottish organisations that can provide additional support:

- [Article 12 in Scotland](#)
- [Capability Scotland](#)
- [Children and Young People's Commissioner Scotland \(CYPCS\)](#)
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- [Children's Parliament](#)
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- [Scottish Youth Parliament \(SYP\)](#)
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St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78652-717-2

Published by The Scottish Government, December 2016

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS83644 (12/16)

W W W . G O V . S C O T