

# Analysing responses to 'Progressing Children's Rights in Scotland: An Action Plan 2018-21'

Report

April 2019

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it right**  
*for every child*



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## **Executive Summary**

In July 2018, the Scottish Government opened a public consultation on its draft Action Plan for Progressing Children's Rights in Scotland between 2018 and 2021. The aim of the consultation was to focus on the content and format of the Action Plan that Scottish Ministers are required to lay before the Scottish Parliament, setting out their plans for taking forward children's rights.

The consultation received 517 responses from individuals – members of the public, which may include some children and young people, and professional stakeholders and organisations. The Scottish Government commissioned Kantar Public to summarise the views contributed in response to the consultation and draw out key themes and findings in the responses, which are captured in this report.

More detail on the consultation context and the research methodology are in Chapter 2.

## **Key Findings**

### **Perceptions of the Action Plan**

Responses to the Scottish Government's consultation were constructive and there was consensus across all consultation responses that children's rights should be respected and enhanced. The way in which this should be done, however, varied.

Respondents felt that the Action Plan should include overarching strategic actions intended to secure transformational change; a summary of specific initiatives being taken forward across all Scottish Government portfolios to implement United Nations Convention on the Rights of the Child (UNCRC) principles; and new policy actions that were identified through this consultation process.

The consultation responses demonstrated that there was wide-spread agreement that the proposed four overarching strategic actions would help to take forward the principles of the UNCRC.

Responses also indicated that the Action Plan should harness existing good practice and not reinvent the wheel; to maximise efficiency and effectiveness moving forward. Whilst there are examples of key initiatives included in Annex A of the consultation document, respondents expressed a desire for further reassurances on the body of work that Scottish Government will consider when developing the strategic framework.

Whilst there was agreement on the proposed components of the Action Plan and on the general direction of incorporating the principles of the UNCRC into Scots law, as announced in the Programme for Government in September 2018, several organisations expressed a desire for the scope of the Action Plan to be extended. These recommendations focused on a desire to have more detail linking each strategic action to individual UNCRC principles; more detail on the specific actions that Ministers would progress and which government portfolios these would link to; budget allocation and ethical considerations. The proposed actions in the consultation document were seen by some to lack detail on how the actions would be measured and evaluated and thus some respondents requested clarification on the evaluation tools that would be used to monitor the development of the participation framework.

## **Inclusion of children and young people**

The consultation document sets out methods which might support wider engagement with children and young people and the intention to mainstream the participation of children and young people at national and local levels. The consultation responses expressed concerns that some specific vulnerable groups of children and young people have not been referenced in proposals for inclusion in the Action Plan.

The strategic action of raising awareness of children's rights was viewed by respondents as possibly being strengthened by making a firm commitment to targeting specific groups of vulnerable children and young people. A wide-ranging list of vulnerable groups of children and young people are listed in the consultation responses (See Page 18). Both individuals and organisations requested reassurances in the Action Plan on how these vulnerable and seldom heard groups of children and young people will engage in the development of the strategic framework.

More accessible language in both the proposed Action Plan and in documents relating to the development of the participation framework was suggested by respondents, as a useful way forward to help engage children and young people. Involving children and young people in the development and implementation of the participation framework, and in outputs and outcomes, was important to respondents. It was further suggested that engagement opportunities could consider both face-to-face and digital approaches to ensure that *all* children and young people are appropriately supported to engage with the Plan and its aims.

## **Engaging key audiences in supporting children's inclusion**

Scottish Government may consider including key audiences with the Action Plan, respondents reported, and included schools, parents/families, children's services and third sector organisations. These audiences were seen to have a pivotal role to play in the engagement of young people and in informing children and young people of their rights.



Schools and nurseries were seen to have a responsibility to inform and educate children and young people about their rights. Play-based learning at primary school level featured regularly in responses, with this preferred by respondents over a more formal approach to primary years education.



Families were noted as having a crucial role in educating young people on their rights, and information sharing campaigns or signposting guidance were recommended to support families in this role. Other ideas included parents receiving practical training and information to raise their awareness of the UNCRC principles, and for this to be shared with pregnant families and reinforced by midwives and health visitors to ensure that children are protected and supported from birth.



Children's services could ensure that their expert views and ability to represent the voices of young people (a key aim of the Action Plan) are represented. Independent advocates help and support young people to better understand their rights and advise on actions that should be taken if their rights are violated. Respondents highlighted the importance of independent advocacy and advised that funding be allocated to support advocacy groups.



A range of third sector organisations are a key resource for the Scottish Government in achieving the aims of the Action Plan. The consultation documentation features the aspirations of the Scottish Government to leverage the support of these groups to enable the engagement of children and young people. Respondents echoed this need, noting how these organisations could potentially help and support children and young people to express themselves openly and freely.

### **Leveraging policy and legislation for children’s inclusion**

Respondents called for actions to promote children’s wellbeing to be reinforced with effective and considered legislation in other policy areas, like education, health and social care, and the legal and criminal justice system.

Respondents largely wanted to see robust implementation mechanisms created or utilised, to safeguard children to ensure effective feedback, measurement and enforcement. Yet, views differed on what ‘robust mechanism’ entails. Some seemed unaware of the current measures, such as the Child Rights and Wellbeing Impact Assessment. This raised an important point about awareness-raising and the benefits of wider promotion of existing policy and legislation.

Respondent recommendations for leveraging policy and legislation for children’s inclusion included:

- i. Calls for stronger legislation, especially enshrining the United Nations Convention on the Rights of the Child into Scots law.
- ii. Using existing legislation and state powers in ‘novel’ ways to strengthen accountability and enforcement of children’s rights in Scotland, in both formal and informal ways.
- iii. Strengthening or simply promoting legislation designed to measure children’s rights and wellbeing, including but not limited to the Child Rights and Wellbeing Impact Assessment.

## Conclusions

Consultation responses were generally engaged, solutions-focused and constructive in response to the proposed content and format of the Action Plan. Overall, there was support for the Action Plan and advocacy of children's rights in Scotland. While the strategic actions are broadly accepted by respondents, the respondents shared their views on what more the Scottish Government could do to maximise the successful embedding of children's rights into policy and practice, including:

- **Embedding the UNCRC principles into policy, practice and legislation:** while there is overwhelming support for the integration of the UNCRC principles, the Action Plan could include more detail on how the strategic actions could be linked to each Article of the UNCRC
- **Build on existing good practice:** the government and key stakeholders could identify and harness relevant literature and good practice that have successfully demonstrated how to engage young people and develop actionable frameworks.
- **Engage children and young people, including the most vulnerable groups:** the Action Plan requires more detail on the groups of vulnerable children that will be considered and involved in the development of the participation framework, further details could also illustrate *how* these seldom heard groups will be engaged in the implementation of the Action Plan
- **Collaborative working with key organisations:** the government could look to further empower and collaborate with third-sector organisations and children's services to target, access and engage *all* groups of children and young people
- **Permeate and reach all policy areas:** the promotion of children's wellbeing could be reinforced with effective and considered legislation in other policy areas, including education, health and social care, and the legal and criminal justice system.
- **User-friendly and accessible outputs: preference for deliverables to be framed in user-friendly and non-technical language, in formats that appeal and can reach a broad audience of children and young people**
- **Raise awareness of children's rights by influencing existing channels: suggested that** government and key stakeholders could identify existing channels, such as parents and schools, to ensure that the voices of children and young people are heard
- **Evaluation and enforcement of the Child Rights and Wellbeing Impact Assessment (CRWIA):** CRWIAs are well-known, but there is a desire for the assessments to be used more frequently, be made more accessible and provided with clearer guidance

## Introduction

### 1. Context

The Scottish Ministers' aim is for Scotland to be the best place to grow up, be educated and to bring up children and young people. Underpinning this ambition is a firm commitment to respecting, protecting and fulfilling the rights of all children and young people. The approach to children's rights is central to a wider ambition to ensure dignity, equality and human rights for all.

The United Nations Convention on the Rights of the Child (UNCRC)<sup>1</sup> sets out the civil, political, economic, social and cultural rights to which all children are entitled, regardless of their circumstances or background. The UN Committee on the Rights of the Child<sup>2</sup> undertakes regular reviews of how state parties, including the UK, are meeting their obligations with respect to the UNCRC. As part of this process, state parties are required to report to the UN Committee approximately every 5 years on their progress in taking forward children's rights.

Part 1 of the Children and Young People (Scotland) Act 2014<sup>3</sup> places 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 and, if appropriate, to take steps identified by that consideration. The Act further specifies that, in complying with these duties, Ministers must "take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware". Ministers are also required to promote public awareness and understanding of children's rights, including amongst children. The Scottish Ministers must report to Parliament every 3 years on steps taken to secure better or further effect in Scotland of the UNCRC requirements" and to promote public awareness and understanding of the rights of the child. Ministers must also set out their plans until the end of the next 3 year period.

The Scottish Ministers introduced a Child Rights and Wellbeing Impact Assessment (CRWIA)<sup>4</sup>, which ensures that all Scottish Government portfolios consider how proposed new policies and legislation might impact on the rights and wellbeing of children and young people. The need to seek the views of children and young people is a key requirement of the CRWIA.

The Action Plan sets out Scottish Ministers' plans for taking forward children's rights in line with the Children and Young People (Scotland) Act 2014 (2014 Act) and focuses on plans for taking forward children's rights from 15 June 2018 until June 2021. The aim of the Action Plan is that it will be a key vehicle for delivering wider, strategic actions intended to support the taking forward of the UNCRC principles.

This consultation promises to inform the policy development and decision-making process, focusing on the content and format of the Action Plan that Scottish Ministers are required to lay before the Scottish Parliament in line with the duties in Part 1 of the 2014 Act. Members of the public were invited to respond to the consultation via Citizens Space and SurveyMonkey. The consultation period ran from 2<sup>nd</sup> July 2018 to 26 September 2018. The

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<sup>1</sup> <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

<sup>2</sup> <https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx>

<sup>3</sup> <http://www.legislation.gov.uk/asp/2014/8/part/1/enacted>

<sup>4</sup> <https://www.gov.scot/policies/human-rights/childrens-rights/>

consultation produced 114 responses via Citizen Space and 403 responses via SurveyMonkey. Respondents were invited to complete a mix of closed questions and open-ended questions. The consultation questions were as follows:

**Question 1:** Do you agree that the Action Plan should include:

- i. Identified overarching strategic actions intended to secure transformational change in how children and young people experience their rights
- ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next three years to secure better or further effect of the UNCRC principles.
- iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives.
- iv. Q1: Where you answered 'No' to any of the above questions – please provide your reasons why you did not agree.

**Question 2:** Do you agree that the four proposed overarching strategic actions are appropriate and will help to take forward the principles of the UNCRC?

- i. Development of a dynamic Participation Framework for Children and Young People.
- ii. Ambitious delivery, through co-production, of the 3-year children's rights awareness programme.
- iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law.
- iv. Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA).

**Question 3:** Are there ways in which the proposed strategic actions listed above could be further strengthened? Please specify.

**Question 4:** Are there additional or alternative strategic actions that the Scottish Ministers should consider? Please specify.

**Question 5:** Are there any specific actions - not currently being progressed within a wider Scottish Government action plan, framework or other initiative - that should be considered for inclusion within the Action Plan?

## 2. Research objectives

The research had two aims:

- i. **Analyse written responses** to the Scottish Government's Rights and Participation team's external consultation responses on Progressing Children's Rights in Scotland. Set out key themes that emerge from the responses, highlighting trends in responses, level of consensus, and drawing out any differences (where relevant) by respondents (e.g. individuals or organisations)
- ii. **Synthesise findings** from responses into a written report, including an overview and discussion of main themes that emerge



### 3. Method

Kantar Public conducted a robust and systematic analysis of the consultation responses.

The first stage of analysis was to review the consultation responses received to understand the content and composition of the responses before developing the analysis framework. This involved reviewing responses to both open and closed questions. The second stage used a content analysis method known as framework analysis to analyse the open-ended question responses. After reviewing the consultation responses and familiarising ourselves with the data, the research team created an analysis framework to capture both anticipated and new themes. The research team tested and refined the analysis framework to avoid duplication and used the final version of the framework to synthesise the consultation responses.

Following synthesis of the responses and further analysis, the research team held an analysis brainstorm to interrogate emerging findings and identify key themes and patterns from across the data.

### 4. Reading this report

There are four key considerations to keep in mind when reading this report. Where relevant, we do distinguish between individual views and responses from organisations. The consultation format did not require respondents to submit demographic details, which limited our ability to conduct sub-group analysis. It is not possible to distinguish between respondents who would be classified as children, young people or adults – as this information was not collected as part of the consultation exercise.

It is important to note responses came from individuals and organisations representing both local and national perspectives. Responses ranged from general to specialist, with some responses very narrowly focused on a specific issue or area of interest.

The absence of an issue or sub-group does not mean it is not important or within scope for this consultation, but rather that it was not submitted by those that took part in the public consultation. The report findings are not exhaustive and do not include every view shared in the consultation. Using rigorous and systematic analysis methods in line with professional standards and guidelines, the research team has made judgements about the main issues raised in consultation responses. This report presents the results of this synthesis and analysis, and it describes the most prominent themes in the data. The findings are thus reflective of the view and experiences of people who responded to the consultation, rather than the public.

Throughout the report, verbatim quotes (appearing in italics), charts and examples are used to illustrate findings. As these are taken from the consultation responses, they should be taken as indicative of the responses submitted rather than representative of the views and practices across the population of Scotland.

## Main Report

### 1. Perceptions of the Action Plan

In summary, the proposals in the consultation document were welcomed and there was consensus that all children have rights that should be respected and enhanced. Whilst the content of the Action Plan was largely accepted by respondents to the consultation, there is scope for extending and refining the Plan. Harnessing existing knowledge was important to respondents and included applying learnings from elsewhere to develop the strategic framework and legislation and programme best practice to achieve the aims of the Action Plan. Extending the scope of the plan was also suggested, in ways that would include more explicit links to the UNCRC principles, details on proposed budgets, ethical considerations and detail on the proposed evaluation tools that could be used to monitor the development of the strategic framework.

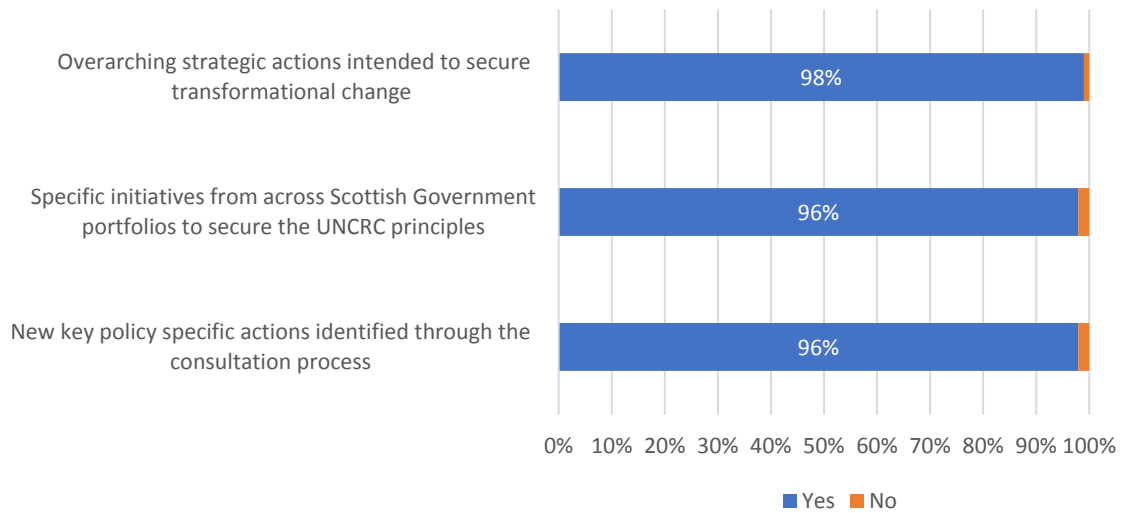
### Overall response to the Action Plan

The Action Plan details the Scottish Ministers' plans for taking forward children's rights. It sets out key activities that will be taken forward from June 2018 until June 2021. The consultation focused on the content of the Action plan and asked respondents whether they agreed that it should include the following:

- i. Identified overarching strategic actions intended to secure transformational change in how children and young people experience their rights
- ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles.
- iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives

There was consensus that the Action Plan should include these three components. Over nine in ten of those who completed the consultation (114 respondents) supported the inclusion of these within the Action Plan.

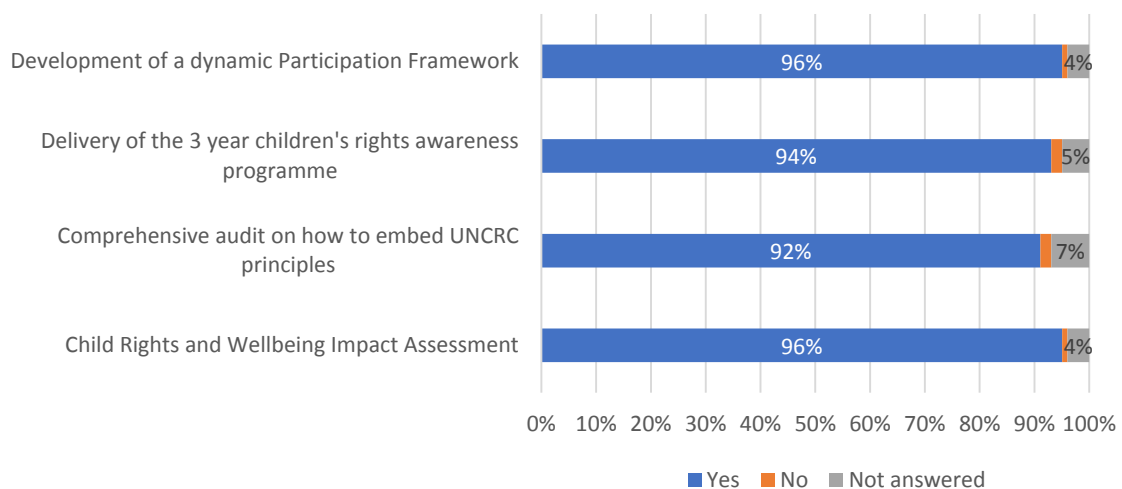
**Question 1:**  
Do you agree that the Action Plan should include:



*Base: n=114 participants of the consultation (Citizen Space only)*

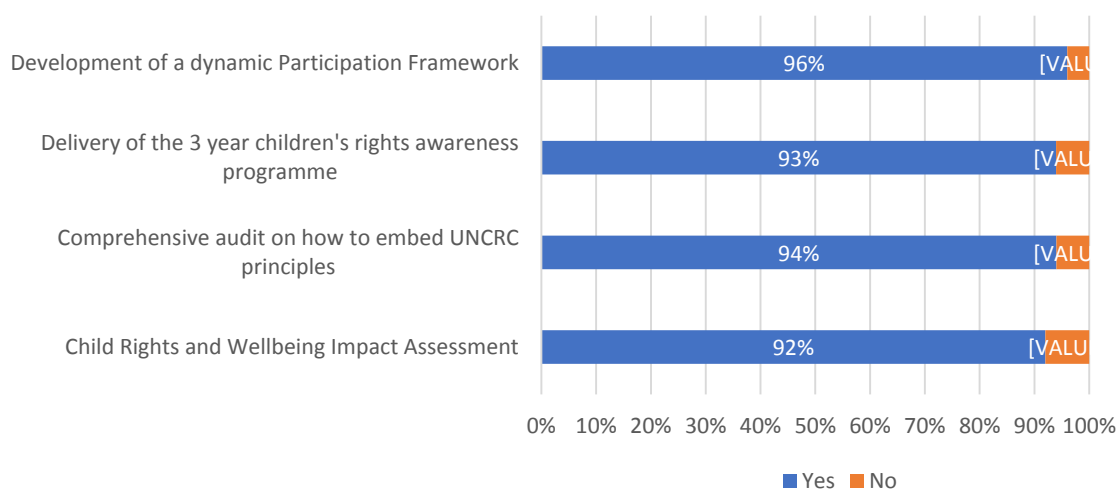
Over nine in ten of those who completed the consultation both via Citizen Space (114 respondents) and SurveyMonkey (403 respondents) overwhelmingly agreed that the four overarching strategic actions proposed by Scottish Government were appropriate and will potentially help to take forward the principles of the UNCRC. As the charts illustrate below, this was consistent across each of the four proposed actions:

**Question 2:** Do you agree that the 4 proposed overarching strategic actions are appropriate and will help to take forward the principles of the UNCRC?



*Base: n=114 participants of the consultation (Citizen Space only)*

**Question 2:** Do you agree that the 4 proposed overarching strategic actions are appropriate and will help to take forward the principles of the UNCRC? (Survey Monkey only)



Base: n=403 participants of the consultation (SurveyMonkey only)

### **Harnessing existing good practice in strategic frameworks, and relevant research, legislation and programme delivery**

The consultation states that the proposed participation framework would include ‘*an evidence base of existing research and new learning about best practice in participation*’. Annex A of the consultation document includes examples of key initiatives focused on children’s rights. This was not a comprehensive list but provided an illustration of the wide range of initiatives and activity being considered. As part of the consultation exercise, respondents advised that the Action Plan needs to offer *more* detail about the good practice that will be used to inform the development of the strategic actions.

Scottish Government proposed that a key action within the Action Plan would be the development of a strategic participation framework, in consultation with children, young people and relevant partners. The aim of the framework would be to support the participation of children and young people at national and local levels. Nearly all (96%) respondents supported the inclusion of a dynamic strategic framework as a key action. However, respondents advised that Action Plan could be more explicit about the way in which the participation framework embraces the volumes of innovative work that already exists across multiple sectors:

*Framework must not become Day 1 in the youth participation in Scotland, but rather must celebrate and learn from the amazing volume and quality of innovative work which has taken place, since the 1990s largely facilitated and led by Scotland’s youth work sector. (Organisation)*

The consultation document states that ‘*we have this incredible opportunity to strengthen the voices of children and young people even further and make sure that they can significantly influence public services and decisions which affect their lives.*’ (4.5) Respondents felt strongly that the Scottish Government could use existing evidence where children and young people have already spoken across a range of relevant issues. The government could reflect

on the decades of knowledge, practice and experience the exists across the sector to ensure that children's and young people's voices are heard.

Participants felt that the Scottish Government could review models of participation when developing the strategic framework. Respondents recommended the following models in their consultation responses, some of which are already included in the consultation document: What Kind of Edinburgh (2017)<sup>5</sup>; Year of Young People (2018)<sup>6</sup>, Investing in Children<sup>7</sup> and Impact of Children; Young People's Engagement in Policy Making<sup>8</sup>, Scotland's Children's Sector Strategic and Policy Forum<sup>9</sup>, Getting it Right for Every Child<sup>10</sup>, the Public Sector Equality Duty (PSED) under the Equality Act 2010<sup>11</sup> and the Young People's Rights Review.<sup>12</sup>

When the Scottish Government develops the dynamic strategic framework, assurances have been given in the consultation that it will reflect on best practice and research based on children and young people in the UK. Respondents have also requested reassurances that the government will also learn from other countries, such as Ireland.

Yet respondents had concerns that using these existing frameworks may narrow the focus of the new strategic participation framework and recommended the Scottish Government could cultivate an overarching national framework, rather than focusing on the needs of individual communities. The volumes of work that reflect the voices of young people in specific local communities and the whole Scottish region could be used to develop this overarching strategic framework:

*We would endorse one national framework rather than several local interpretations. The Framework should include existing initiatives/ tools such as Rights Respecting Schools and link with policy and legislation such as; the Children and Young People (Scotland) Act 2014 Part 3 – Children's Services Planning, Equality Act 2010 schools' duties and Additional Support for Learning Act duties, Community Empowerment Act 2015, Community Learning and Development Plans and Pupil Equity Funding Plans. (Organisation)*

Respondents felt that Scottish Government could reflect not just on research and best practice from across the sector, but also reflect on previous legislation. Consultation responses urged Scottish Government to progress the actions that were seen to not yet be successfully implemented from the previous Children's Rights Action Plan, 'Do the Right Thing' (2009).<sup>13</sup>

Further to a review of old legislation, Scottish Government could also include an audit of pre-existing training materials produced by third sector organisations and public bodies.

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<sup>5</sup> <https://www.childrensparliament.org.uk/our-work/what-kind-of-edinburgh/>

<sup>6</sup> <https://young.scot/yoyp2018/yoyp-articles/what-is-year-of-young-people/>

<sup>7</sup> <http://www.investinginchildren.net/>

<sup>8</sup> <https://www.gov.scot/publications/impact-children-young-peoples-participation-policy-making/>

<sup>9</sup> <https://childreninscotland.org.uk/childrens-sector-strategic-and-policy-forum/>

<sup>10</sup> <https://www2.gov.scot/Topics/People/Young-People/gettingitright>

<sup>11</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>12</sup> [https://www.syp.org.uk/young\\_people\\_s\\_rights\\_review](https://www.syp.org.uk/young_people_s_rights_review)

<sup>13</sup> <https://www2.gov.scot/Publications/2009/08/27111754/0>

## Extending the scope of the Action Plan

Over nine in ten of those who completed the consultation on Citizen Space agreed that the Action Plan should include strategic actions to secure how children and young people experience their rights. A similar proportion also agreed that the Action Plan should include both a summary of initiatives that help to secure UNCRC principles and key policy actions identified through this consultation process.

Whilst respondents agreed with the proposals, they also felt that the scope of the Action Plan could be extended further. Across the consultation exercise, respondents offered suggestions on how the strategic actions could be more comprehensive and extensive. Respondents called for further detail on the strategic actions set out in the Action Plan, seeking full incorporation of UNCRC principles into Scots Law.

Respondents felt the scope of the strategic actions could be extended further by including each Article of the UNCRC, including all sub sections. The majority welcomed the commitment to incorporate the principles of the UNCRC in to domestic law (announced in the Programme for Government in September 2018), however there was a sense of uncertainty and ambiguity about whether these principles would be incorporated fully into law.

*We appreciate that the Programme for Government for 2017-18 included the commitment to undertake a comprehensive audit on the most effective and practical ways to further embed the principles of the UNCRC into policy, practise and legislation. To progress this agenda, we firmly believe that full incorporation of the UNCRC into domestic law should be promoted from an option to a target within the lifespan of the Action Plan. (Organisation)*

The general direction of incorporating the principles of the UNCRC into domestic law was endorsed. Respondents suggested that it would be helpful for Scottish Government to map out specific actions against each article of the UNCRC and to provide the detail on links to all individual UNCRC articles. Respondents were hopeful that this would limit the risk of the exclusion of some children's rights or specific vulnerable groups.

The strategic actions could also be extended further by relating, in a meaningful way, to both the mental health and wellbeing of children and young people, respondents felt that this detail was currently lacking in the proposed Action Plan. The action points could also be extended further to include a top up to child benefit, to recognise the significance and impact of Adverse Childhood Experiences (ACE)<sup>14</sup> and how progressing children's rights may contribute to a reduction in ACEs.

Over nine in ten of respondents agreed that one of the overarching strategic aims to deliver a 3-year children's rights awareness programme would support embedding the UNCRC principles. If the children's rights awareness programme is successful, there could be an increase in complaints from those whose rights are violated and the Action Plan may need to reflect this. Respondents suggested that the Action Plan could be extended to include a strategic action that supports young people who wish to challenge their rights violations.

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<sup>14</sup> <http://www.healthscotland.scot/population-groups/children/adverse-childhood-experiences-aces/overview-of-aces>

Respondents also suggested that the Action Plan be extended further to include additional detail. Mentions across the consultation included: resources; a child-friendly complaints process, processes to publish complaints and advocacy support. An additional recommendation was to remove the defence of 'justifiable assault' to increase the protection of children and young people in the long term.

There was a desire for further detail on the specific actions that Scottish Ministers wish to progress as part of the Action Plan. On this basis, respondents recommended that there could be a clearly defined operational framework that clarifies the activities and actions which will be undertaken:

*We believe that once the strategic content of the Action Plan has been agreed, consideration should be given to the development of a specific operational framework to clearly define the activities and actions which will be undertaken to support agreed objectives. This should include timelines, resources, measurable outcomes and clear governance structures. This will allow progress to be effectively monitored and progress to be more accurately assessed. (Organisation)*

Respondents were concerned that the Action Plan may be too narrow in scope to include all government programmes. Whilst respondents welcomed the inclusion of schemes from across government, they expressed a desire to extend its reach further:

*We welcome the plan to include reference to specific initiatives across all government portfolios but are concerned that in the current list not every portfolio is represented, for example, Culture, Tourism and External Affairs. (Organisation)*

The Action Plan could be extended further to ensure that it includes ethical considerations, regarding consent when consulting with children and young people. Respondents felt that Scottish Government should give clear guidance and instructions on ethical issues within the Action Plan. Expanding the scope of the Action Plan to include clarification on ethics would inform organisations working to implement the Action Plan.

Effective evaluation would allow for better performance management and allocation of resources over the next three years. Respondents felt that there was a lack of detail in the consultation on how any initiatives and actions would be measured and evaluated moving forward. It was recommended that as the framework is developed, evaluation tools should be implemented to enable effective monitoring:

*Monitoring and evaluation tools should be co-created as the framework develops so that reflections are recorded and recommendations implemented from the beginning. Monitoring should also record how participation is being embedded and is inclusive and accessible to those seldom heard from. (Organisation)*

The Action Plan sets out a three-year initiative, but respondents suggested that it could be extended to show how the short-term three-year plan coheres with the long-term initiatives (listed in Annex A of the consultation) e.g. how the Action Plan would feed into the education and mental health improvement framework.

The Action Plan could also be extended in a way that ensures that young people are included in the title. Respondents suggested that the Action Plan could be called a 'Children and Young People's Rights Action Plan 2018-2021' as opposed to 'Progressing Children's Rights in Scotland: An Action Plan 2018-2021'.

The Action Plan currently offers little detail on budget and funding allocation. Respondents felt that they wanted reassurances on how and where funds will be invested. Given that the Action Plan states that one of the aims will be to increase the capacity of the third sector to undertake some of the tasks involved in engaging young people, respondents expressed their desire for further clarification on how this will be managed and what funds will be made available for third sector bodies.

A further suggestion on how to increase the detail on budgeting within the Action Plan, focuses on the actual budgeting model to be applied. It was recommended that there could be a 'children's thematic budget' (as per the Scottish Women's Budget Group<sup>15</sup> (SWBG)) which could be used to illustrate how the allocated funds would affect children and young people. The SWBG seeks to challenge the decisions Scottish Government makes about how public money is spent. Respondents proposed that, in a similar way, Scottish Government could also be challenged on how public money is allocated to guarantee that it is spent effectively on children and young people in Scotland.

One organisation reported they do not support the Action Plan because they believe the principles underpinning the Children's Rights Act reflect 'political bias'.

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<sup>15</sup> <https://www.swbg.org.uk/>



## 2. Need for inclusion of children and young people

The consultation document sets out approaches that might support wider engagement with children and young people at national and local levels. The underpinning principle of the Action Plan that children and young people will engage with the strategic actions and be heard and listened to, was supported by respondents. Respondents wanted reassurances that individual groups of seldom heard and vulnerable children would be included in the Action Plan. Participants expressed their concerns that specific groups of seldom heard children and young people were not explicitly referenced in the consultation. The strategic aim of managing a campaign focused on raising awareness of children's rights was welcomed, supported by a firm commitment to inclusivity of children at national and local levels. Involving children and young people in the development of the participation framework work was important to respondents, to ensure that children and young people were supported throughout the engagement process. Respondents felt both the participation framework and outputs could extend their reach, if they are communicated in a child-friendly and accessible way.

### **The importance of representing children and young people in the Action Plan**

A key aim of the participation framework set out in the consultation document, is that children and young people support measures which can help encourage the participation of children and young people, particularly the most vulnerable, in the decisions that affect them. In the Engagement with Children and Young People section of the consultation document (Annex B), there are references to examples of seldom heard groups of children and young people who have participated in events.

The consultation responses demonstrated that respondents were concerned that specific groups of vulnerable children have not been explicitly referenced or included in the Action Plan. Both organisations and individuals articulated their concerns that the most vulnerable groups of young people may not be adequately involved or engaged in the participation framework. One organisation summarises:

*In terms of the second strategic action, raising awareness of children's rights, this could be strengthened by making an explicit commitment to targeting vulnerable groups of children and young people. There is evidence to suggest that awareness of children's rights is particularly low amongst vulnerable groups.... It seems important therefore that there is an explicit commitment to raising awareness of children's rights amongst vulnerable groups of children and young people. (Organisation)*

Respondents felt that the Action Plan needs to demonstrate that it is encompassing *all* children and young people whose needs may not be met by 'universal services'. The groups of children mentioned by both individuals and organisations across the consultation include those with complex disabilities and needs; autistic children; deaf children, those with psychiatric needs and mental health issues, LGBT+ children and young people; girls and young women; those who are homeless; victims of domestic abuse, those with life-limiting conditions and those in hospitals. Respondents were concerned that the needs of these groups may be ignored when implementing the Action Plan because they may struggle to communicate their own needs.

*Development of a dynamic Participation Framework for Children and Young People should include ALL children by addressing inequality issues such as poverty, disability, literacy, English as the first language and other communication issues, rurality, age, care experienced, young carers, sexuality, health and those not engaging in schools or groups (such as brownies and cubs). There needs to be more emphasis on how ALL children (particularly those in the groups listed) will influence the participation framework and the strategy itself. (Organisation)*

There was a desire for reassurances that both those in education and those who are not engaged in schools are involved, and that those with literacy, English as a second language and other communication requirements are also considered. An organisation stressed the importance of including alternative education providers in the development of the framework to ensure that there will be a level of engagement with those who have been excluded from mainstream education.

Similarly, there were several mentions among the consultation responses that focused on the need to accommodate children and young people who reside in care (both secure and residential). There were demands that children and young people whose parents are in the Armed Forces or whose parents are in prison, could also be accommodated given the unique challenges and difficulties that they face.

There was a shared concern articulated among the organisation responses that babies and younger children may not currently be accommodated adequately in this process and that they could be treated as 'active citizens':

*Professor Aline-Wendy Dunlop refers to the 'ladder of participation for children' and reflects that babies and very young children are 'not waiting to be citizens, they are citizens of the environment that they are in, they have democratic rights to influence what is going on.'" (Organisation)*

Respondents felt that those in remote rural areas must also be heard and given feedback on actions taken.

Respondents requested that those currently seeking asylum, migrant and refugee children could be engaged with the process and that this process could also represent the voices of disparate ethnic minorities and all religions.

For several organisations, a simple promise to include these vulnerable groups would not suffice, they wanted reassurances on how accessibility to these groups will be approached. A stratified sampling approach could ensure that a broad sample of children and young people are engaged in the participation framework:

*The Scottish Government must ensure that it is fair and reflective of the communities it represents. It must NOT filter or select information to represent its own views and ambitions but collect and analyse the information in ways that truly reflect Scottish communities and then ensure that the actions respond to the actual needs of those communities. (Organisation)*

## Opportunities for engaging children and young people in their rights

Respondents advised that the Action Plan needs to be written in a way that is accessible for young people and children. Concerns focused on the fact that the language may be too technical and difficult to understand and that producing documents in English and other languages may increase its reach. Respondents suggested that children and young people may find it easier to understand their 'rights' if they are made relevant and 'real' by being linked to real life examples, rather than presented to them as abstract concepts.

*...Children's familiarity with the principle of non-discrimination must be joined with the knowledge that if a police officer unfairly targets them because of their identity, they can challenge the breach of their rights. 'Ambitious' should imply action learning, not merely academic knowledge, using Case Studies (negative and positive) that demonstrate children's experience interacting with and participating in Scottish society and institutions such as the criminal justice system, Government and education, to enhance active awareness. (Organisation)*

Likewise, when focusing on raising awareness of children's rights among young people, respondents also advised that Scottish Government considered the format of their outputs, in terms of increasing interest and engagement among young people. In terms of dissemination, it was also advised that campaign messages need to be visible via the forums that young people occupy e.g. Facebook and Instagram pop ups with consistent easily recognised messages that reach young people across these forums.

*Communications so far are in the format of word documents; which is not ideal if the aim is to increase the interest of young people in a rights culture. For those of us outside of government; it's difficult to see clearly, how actions within the report taken by the Scottish Government are directly related to the Convention on the Rights of the Child. It would be useful if digital communications were more visual and interactive; for example, create an interactive digital map to show how the Scottish Government is meeting the aims of each article within the Convention on the Rights of the Child. (Organisation)*

Another dissemination suggestion was to develop a portal for young people seeking unbiased information about current areas of engagement:

*Other suggestions were the creation of a 'non-politically spun' portal where young people can seek unbiased information about current areas of engagement. However, this would also need to be heavily promoted as it would not be an online community that young people would naturally gravitate towards.*

Respondents recommended that young people could be involved and engaged with the ongoing development of the Action Plan, which in turn could guarantee that it would be accessible for the majority. It was reported as unclear from the consultation document what or how the Scottish Government have defined co-production and it was considered essential that co-production could have young people at the heart. Respondents felt that it would be important to look at different approaches to co-production and the extent to which they meet the need of different groups of children and young people. Respondents advised that the action plan needed to be young person-friendly and written by young people.

*Scottish Ministers should consider documents that are young people friendly, have accessible language with use of plain English and offer materials in other languages. (Organisation)*

The consultation document discussed the annual Cabinet meeting with children and young people, noting that this demonstrates *'our real commitment to ensuring that children and young people's voices are listened to and taken seriously at the highest level in government.'* The consultation responses showed support for this promise and a shared desire to listen to the child's voice and share their opinions and views with Scottish Government. It was recommended that engagement could include diverse and multiple avenues to give children a voice as *'not all children want to be consulted in the same way'*. Respondents suggested that engagement opportunities include face to face activities, in recognition that not all children use social media and for those who have limited access to digital platforms. Engagement could build on the everyday interests and concerns across *all* age groups.

*While digital methods are useful, high quality in-person engagement on this issue should not be overlooked. Rights are an emotive subject and the Scottish Government may find it difficult to engage if the opportunities to participate are not varied or emotive enough. (Organisation)*

It is important that all children, irrespective of their physical or learning abilities are given access to the same opportunities to participate in the participation framework. One organisation recommended that Pamis digital passports<sup>16</sup> and Pamis multisensory stories<sup>17</sup> are utilised to support the engagement of children and young people with profound and multiple disabilities.

Some respondents also suggested that the young people who participate in the consultation could also be given access to the outcomes so they feel valued and get to see the impact of their involvement.

Respondents felt that the Action Plan could also clarify *how* children and young people will be involved moving forward throughout the three-year process and beyond, rather than this being one single interaction:

*To ensure children and young people's participation is not a one-off exchange, clarity is needed on how children and young people will be involved at all stages of policy and practice development; this includes involvement in monitoring and evaluation processes. (Organisation)*

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<sup>16</sup> <http://pamis.org.uk/services/digital-passports/>

<sup>17</sup> <http://pamis.org.uk/services/multi-sensory-storytelling/>

### 3. Engaging key audiences in supporting children's inclusion

Scottish Government may consider engaging key audiences within the Action Plan. Respondents included schools, parents/families, children's services and third sector organisations as audiences that have a pivotal role to play in implementing the Action Plan. These agencies have unique relationships with the most vulnerable groups of children and young people and collaborative working with government could ensure that these vulnerable groups are represented. Both parents and teachers share a responsibility in teaching children about their rights, and respondents suggested they have access to training to support the rights of children at home, in school and more generally. Children's services and third sector organisations could also help support the aims of the Action Plan by encouraging the young people they serve to communicate freely in decisions about their rights.

#### **Schools and education providers**

Teachers and schools have a critical role to play in the implementation of the Action Plan. Both in terms of increasing awareness and understanding of children's rights among children and young people, and in terms of supporting them to engage with their rights. Schools also offer a safe environment where UNCRC principles can be embedded in classroom practices.

Teachers and schools share a responsibility in educating children, helping them to understand their own rights and how to respond if these rights are violated. Respondents felt that both nursery and schools could be obliged to teach children about their own rights. Respondents proposed that this could be mandatory and accommodated in the school curriculum. Educating children about their rights would help children and young people to understand their rights and the importance of having the principles of the UNCRC embedded in Scottish legislation.

Respondents shared their views on how pupils could learn about the workings of the legal system to understand, appreciate and help secure their rights. Some respondents called for this to be mandatory that law and the legal system is introduced in the classroom. In order that teachers are prepared for this responsibility, Scottish Government may introduce a programme of teacher training to incorporate learning (and then teaching) about UNCRC principles within schools.

Incentivising engagement with children's rights was seen to be effective for furthering the aims of the consultation. Schools could potentially receive recognition for their role in educating children and young people about their rights. The Gold Standard UNICEF Respecting Rights Award (RRSA)<sup>18</sup> was viewed as a meaningful way to both support and encourage schools to help embed children's rights fully within Scottish society. It was recommended that schools work towards the RRSA throughout the three-year period of the Action Plan, to help promote an understanding of the rights of the child, among children and young people themselves.

Consultation responses focused on the significant role that both schools and teachers would play in raising awareness of children's rights among their young pupils. Respondents also focussed on the way in which specific UNCRC principles would be integrated and embedded in classroom life. Respondents focussed on play-based learning at primary level in schools,

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<sup>18</sup> <https://www.unicef.org.uk/rights-respecting-schools/>

linking this specifically to Article 31 of the UNCRC<sup>19</sup>. A unique view was for the school start age to be raised to 7 years old, with no formal introduction of literacy or numeracy until this age and all formal testing removed. Article 31 links to a play-based approach to learning, rather than the formalised approach currently offered in formal primary years education. When reflecting on Article 31, respondents recommended that nurseries should offer a minimum of 50% 'outside' time because *"it is the child's rights to live a 'creative life' and that should be built into the language of the policies and Action Plan guidance."*

Respondents highlighted that some young people struggle with finding their voice, both on school council and within the school environment more generally. Schools could support *all* pupils and address conflict and barriers within the classroom, so that all children and young people can find their voice, exercise their rights and speak out when they feel that their rights have been violated:

*The work of Byrne et al 2018 and the young people's led research (supported by The University of Edinburgh and Investing in Children, liC) identified that some young people's views are given no weight at all in decision making in schools. The research highlighted a lack of listening; discrimination against children from diverse and less well-off backgrounds; and the use of rigid rules and punishment to deprive pupils of their right to education. The young people involved in the project concluded that there is a need to address the cultures, structures and relationship issues in schools that create barriers and inhibit appreciative relationship building between adults and pupils. (Individual)*

Partnerships and collective collaborations of professionals from across the education sector could potentially support embedding the strategic actions set out in the Action Plan. Respondents suggest that collaborations with educational specialists, could support the implementation of the Action Plan. A collaboration, such as Regional Improvement Collaboratives<sup>20</sup>, that shares the purpose of bringing together a range of professionals who focus on supporting teachers to improve children and young people's educational attainment:

*Overall, we are of the view that there would be benefit in having a greater focus on partnership, which we consider would link the strategic actions well. This could be improved by ensuring collective collaboration. For example, we believe that there would be a greater accountability or management of these actions if they were to be set within the Improvement plans of the 6 Regional Improvement Collaboratives. Not only is this a more manageable group to assist the implementation of these actions, but each RIC will undoubtedly have children from every sector. Having RICS at the forefront of these actions could lead to a more integrated and cohesive system. (Organisation)*

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<sup>19</sup> Article 31 (leisure, play and culture) Every child has the right to relax, play and take part in a wide range of cultural and artistic activities.

<sup>20</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/foi-eir-release/2018/03/foi-18-00582/documents/bd283c35-07f5-4707-b03f-b936cc171914/bd283c35-07f5-4707-b03f-b936cc171914/govscot%3Adocument>

## Parents and carers

Parents, extended families and carers play a critical role in supporting children and preparing them for the world beyond home-life. They have a significant part to play in the implementation of the Action Plan, both in terms of raising awareness of children's rights and the development of the participation framework. They are well-placed to inform their own children of their rights and yet often do not have the knowledge or experience to do so.

Respondents suggested that practical training and an information campaign among parents is essential. It was suggested that Scottish Government could link up with parent forums to raise awareness of the UNCRC principles among parents and parenting networks. Consultation responses expressed a desire to also raise awareness of children's rights among parents during the ante-natal period. The Baby Box approach in Sweden is proposed as an effective way to support parents to understand children's rights and how to uphold these.

*Parental engagement of parents/carers should be reflected with the view of informing parents of the rights for their child. (SurveyMonkey sample)*

Respondents also suggested that funding could be allocated to ensure that midwives and health visitors inform parents about their children's rights.

*More general support for parents should also be considered, as there is currently no overarching Parenting Strategy, despite a number of different parenting programmes such as Solihull and Triple P, which can lead to confusion for parents and practitioners especially when cultural differences in parenting styles arise. (Organisation)*

Given the critical role that parents and carers play in the lives of their children, respondents requested that both parents and carers engage in the development of the participation framework. Furthermore, both parents and siblings of children and young people with profound disabilities are involved in the development of the framework to ensure that the views of these young people are elicited in the most appropriate way.

*The proposal will not encompass the needs of children and young people with autism and learning disability unless the views of their parents and carers are also included. This is because these children and young people have communication difficulties, and yet much greater need for statutory services. (Organisation)*

## Children's services, including independent advocates

Children's services and independent advocates have the potential to give a voice to the most vulnerable groups of children and young people. It is important that Scottish Government engages with these services and bodies. Respondents suggested that collaborative working with these organisations could enable and increase the accessibility, engagement and interaction of young people across the three-year process.

Practitioners working with children and young people in disadvantaged areas can give an 'insider's view' on the impact of deprivation and poverty on young people. Respondents suggested that children's services could be invited to contribute to the planning, approach and implementation of the strategic actions, because they are so well-placed to advise on how to engage these children and young people. Respondents suggested that consideration



could be given to every LA/CPD having a Children's Rights Lead Manager and a Children's Rights Service during the development of the Participation Framework.

*I think it is important to gather specific views from those practitioners working in extreme areas of deprivations. I am the DHT in one of Scotland's most deprived schools and the realities for this are much more significant than can be outlined in any paper without a real, insider view on the affects this has on children. (Individual)*

Children's services can vocalise the needs of seldom heard groups of children and young people. It could potentially be a requisite that organisations who work with vulnerable groups are involved in the development of the participation framework. Given that involving vulnerable groups of children and young people often involve extra safety and wellbeing considerations:

*It is essential that organisations who are experienced in working with vulnerable groups of children and young people have a seat at the table when developing the participation framework to ensure it is fit for purpose. (Organisation)*

Given their experience of working with a range of children and young people, respondents suggested that there needs to be open dialogue between public bodies and organisations about facilitating participation. This is not just because they are 'experts' but also to minimise the risk that public services will duplicate resources "*in pursuit of the same aim*" (Organisation). There needs to be transparency about how these various public sector bodies will gather information and encourage participation over the next three years.

Not only could children's services be involved in the development of the participation framework, there is also an argument that they could be given access to the outcomes of the Action Plan. The outcomes will potentially benefit the young people who access these services. These organisations could learn from the outcomes and embed a *culture of participation and listening in their practice*, that will benefit young people in the long-term. The framework could be appropriate for a broad range of parties that work with children and young people.

Given that children's services play such a critical role in the lives of children and young people, respondents felt that budget could be allocated to local authorities specifically. Investment targeting skilled and competent practitioners could facilitate the engagement of children and young people in the development of the strategic framework. Respondents wanted reassurances that there would be this investment of financial resource in the implementation and development of the framework, as they felt that this funding could help realise the meaningful participation of children and young people in the process.

*Scottish Government and local authorities should build in consistent funding streams to promote the participation of children and young people. Wherever possible this should support ongoing, child led engagement where children and young people are given a space to raise issues that they want to talk about. (Organisation)*

Advocacy helps young people to better understand their rights and what to do when their rights are not met. Independent advocacy therefore has a critical role to play in the implementation of the Action Plan. Respondents requested that the Action Plan highlight the importance of independent advocacy. Respondents felt that there is a current lack of adequate advocacy services for young people, particularly for both those who are entitled to access the service until the Mental Health (Care and Treatment) Act 2003<sup>21</sup> and refugee and

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<sup>21</sup> <https://www.legislation.gov.uk/asp/2003/13/contents>



migrant children. They also felt that there is a lack in advocacy services for children and young people who are required to attend hearings.

*We would like to see the Action Plan itself highlight the importance of independent advocacy. Independent Advocates are professionals with a particular set of skills, knowledge and expertise. They are a vital resource for many different people who find it difficult to access services for a variety of reasons. Independent advocacy safeguards people; who are vulnerable and discriminated against; or whom services find difficult to serve. (Organisation)*

Given that advocacy services help young people to understand their rights, respondents suggested that the Action Plan could show that funding would be allocated to the legal advice services that currently provide free advice to children and young people. Respondents expressed their concerns about the lack of provision of some advocacy services and felt that funding would help support these important advocacy services.

*The 16-17 Scottish Independent Advocacy Alliance's 'A Map of Advocacy across Scotland' found significant gap in provision for CYP with a mental illness, and in some local authority areas there is no provision at all. Similarly, at children's hearings, the majority of children do not have access to independent advocacy. (Organisation)*

The consultation responses included proposals that requested that small organisations could be made aware of the ELC Inclusion Fund<sup>22</sup> which could be utilised to provide children accessing their funded ELC with additional support. The ELC Inclusion Fund was created with £2 million funding to enable staff to better support children with disabilities and other additional support needs.

### **Third sector organisations**

Third sector organisations include voluntary and community organisations (both registered charities and other organisations such as associations, self-help groups and community groups), social enterprises, mutual and co-operatives. Like the children's services bodies, third sector organisations regularly engage with children and young people and are well placed to be strong advocates for children's rights. The organisations working within the youth sector have the potential to encourage young people's participation in the development of the strategic framework:

*The Participation Framework must recognise that participation is a relationship-based experience, where young people must have access to information and in most cases facilitation support before they can choose to participate. This will require financial investment in, and increased capacity of, organisation within Scotland's youth work sector, to ensure that young people can meaningfully engage in delivering the elements of this framework (Organisation)*

Section 4.6 of the consultation document noted that, 'initial thinking is that the proposed framework would include ... a central resource to enable Scottish Government business areas to engage with children and young people on policy and legislation and increase the capacity of the third sector to undertake this work', yet respondents requested further reassurances on the involvement of third sector bodies. It was recommended that Scottish Government seeks input from key stakeholders from a range of third sector organisations

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<sup>22</sup> <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-quality-action-plan/pages/13/>

throughout every stage of the implementation of the Action Plan. Respondents requested that organisations working with disabled children and young people are engaged in the framework development. In addition, respondents recommended that those who are involved in local youth participation structures could also be engaged to support the involvement of young people in the process.

*A 'Participation Champion' in the development process of all policy and legislation to ensure all policy areas are serving our young people well could hold responsibility for involving and coordinating young people and third sector input throughout every stage of the policy-making process. (Organisation)*

Third-sector organisations are experienced at engaging *all* young people across a range of difficult issues, encouraging young people to express themselves via appropriate methods of engagement. This does not just relate to those third sector organisations supporting children and young people with disabilities, but to children and young people from across society. Scottish Government could harness the experience and expertise of third-sector organisations in the development of a participation framework to support children and young people to express themselves and understand the range of complicated issues that would be at the focus point of discussion:

*The cultural sector (some of which are third-sector organisations) are very experienced in how to engage well, how to increase participation and how to manage, simplify and explore complex subjects, the Scottish Government should consider how to work with the cultural sector and the third sector to engage with children and young people in conversations about rights. (Organisation)*

Scottish Government could work collaboratively with both voluntary organisations and local authorities to deliver a programme of activity that shares consistent messaging and content via a high profile and collaborative campaign. Respondents felt that this collaborative way of working with third-sector organisations would help to raise awareness of children's rights.

Third sector organisations' services were viewed as 'a lifeline for many children' by organisations and individuals, for young people unable to access statutory services or services closed due to insufficient funding. It was recommended that Scottish Government could support stronger partnership working and communication between the statutory and third sectors.

#### 4. Leveraging policy and legislation for children's inclusion

Consultation respondents generally believed children's rights should be at the heart of policy and planning in Scotland; and evidencing progress and demonstrating accountability underpinned these views. Respondents argued that existing legislation could be used more, or in new ways, to protect children effectively. For example, modify existing legislation to align it with the Action Plan and to feature children and young people more explicitly. Strengthening child protection policy and legislation by including an auditing and feedback mechanism in safeguarding processes may also help respond to suspected or actual children's right

#### **Using existing policy and legislation to uphold children's rights**

Respondents in support of the Action Plan came up with recommendations – some more formal than others – of how to uphold children's rights and align the Plan with existing legislation.

Embedding the United Nations Convention on the Rights of the Child into policy, practice and legislation (Action 3 of the Action Plan) received widespread support through the closed questions and responses to the open questions. Children's rights were viewed as cutting across policy and legislation, and respondents believed the UNCRC should be considered in all new policy, with some going further to argue for it to be enshrined into domestic law. Respondents who answered the open questions often recommended actions that were in line with Action 3.

Respondents shared existing policies and law where they expected coordination with the Action Plan: Equally Safe Plan, the Anti-Poverty Strategy, the Child Poverty Action Plan, Fairer Scotland, the Play Strategy and Scotland's culture policy.

*I think that it is vital to properly coordinate the proposed actions and outcomes. This not only to avoid duplication and confusion but also to keep people's motivation to participate high. (Individual)*

Two Citizen Space users did not support Action 3 in terms of progressing the comprehensive audit on the most effective and practical ways to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law. One other individual also opposed Action 3, they described it as a 'children's rights doctrine' and criticised it for not giving autonomy to families in these matters:

*The strategy seems to focus solely on children's rights however everyone has rights not just children. Families must work as units and no one person has more rights than the other however children seem to have the idea they have rights and those rights trump everyone else - this is absolutely not the case. (Individual)*

Respondents also proposed less formal methods, to implement the Plan effectively and have strong mechanisms for accountability and enforcement. An organisation believed the audit included in Action 3 be completed before the awareness-raising of children's rights which constitutes Action 2.

*We suggest the audit must take place before any kind of awareness raising campaign on children's rights. Decision-makers, influential public bodies and the Scottish legal system needs to understand what children's rights mean in practice, before we try to educate Scottish society about them. (Organisation)*

Organisations also suggested using existing state powers (such as corporate parent powers and the ability to get public bodies to report actions) to implement children's rights effectively, without having to enshrine new laws.

*Requir[e] public bodies to report on how they implement and embed the principles of UNCRC into their strategic planning and operational delivery. (Organisation)*

### **Perceived tension between existing policy and law and the children's wellbeing**

The proposed Action 3 of the Consultation was considered to have challenges. Some organisations identified a perceived tension between existing policy and the Action Plan, with some policies considered to be at odds with the principles of children's or human rights, like Secure Care,<sup>23</sup> the age of Criminal Responsibility and age of consent to sexual activity. For example, in the absence of a ban on using 'mosquito' devices to disperse groups of young people from public and private spaces, it was suggested that the policy was undermining children and young people's wellbeing.

*We welcome [...] that the Ministers have said they are now "not opposed" to restrictions on such devices, however no specific plans have been brought forward to regulate or ban them in any way. The Children and Young People's Commissioner for Scotland has previously highlighted how use of [mosquito] devices breach many children and young people's rights. (Organisation)*

Another example was the inability of children and young people to legally withdraw, or opt-out, from religious observance in Scotland, an observation also made by the UN committee on the rights of the children.<sup>24</sup>

*There is no current commitment to extend the opt-out of religious observance to young people as well as their parents and guardians. [We] believe that individuals have a right to self-determine their religion or belief and we strongly support the Universal Human Right to Freedom of Religion or Belief. (Organisation)*

The armed forces recruitment policy was noted as being at odds with the rights of young people, because of its ability to recruit 16-18-year-olds.

*While these recommendations fall within the purview of the UK Government we still believe that the Scottish Government can play an active and positive role in making sure these recommendations come to fruition by [...] undertaking a Child Rights and Wellbeing Impact Assessment on the continued presence of the armed forces as recruiters in Scottish schools. [And] raising the issue of child recruitment into the UK armed forces with the UK Government and other devolved administrations, actively supporting the recommendations of the UNCRC. (Organisation)*

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<sup>23</sup> Secure care involves the restriction of liberty of children, under the age of 18, in a residential establishment, where care services are provided, on the condition that they have previously absconded or are likely to abscond to which there would be a risk to that child; that they are likely to engage in self harming conduct; or that the child is likely to cause injury to another person. .

<sup>24</sup>

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOj6VpDS%2F%2FJgg2Jxb9gncnUyUgbnuttBweOlyfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5Ltw0GL>

## Respondent suggestions for new or revised policy and legislation

Respondents also shared suggestions for new or revised policy and law they felt would better support the rights of children and young people. These views varied and reflect the principles and values held by respondents expressing them, and include increasing the age of pupils receiving sex education, setting a minimum age for body piercings and making clearer how the Named Person, as set out in the Children and Young People (Scotland) Act 2014, is intended to meet the needs of children, young people and their families.

One respondent felt that the age which children are receiving relationship and sexual health education is too young and felt this was problematic for the rights of these children.

*Other actions to include involve protection against sexual education being discussed at an early age. The right to be protected from unhelpful indoctrination of sexual identity and gender ideas imposed by government. (Individual)*

Introducing a minimum age for ear and body piercings was viewed by one respondent as necessary for supporting the mental and physical health of children and young people.

*Babies and young children are getting their ears and other body parts pierced at the instance of their parents which is legal in this country but is extremely distressing to the child. It can also be dangerous as a young child cannot keep clean appropriately or avoid injury. Surely this is a violation of that child's rights and a minimum age should be applied. (Individual)*

There were recurring concerns raised around the role of the Named Person as set out in the Children and Young People (Scotland) Act 2014 and some comments on the Getting it right for every child approach more generally.<sup>25</sup>

*[Getting it Right for Every Child (GIRFEC)] and SHANARRI [an acronym of the eight wellbeing indicators] is rubbish as only used against parents. The named person scheme needs scrapp[ing]. (Individual)<sup>26</sup>*

Other organisations viewed the GIRFEC framework as a strength due to its robustness.

*We would also suggest that UNCRC principles be aligned with the overarching approach of Getting It Right for Every Child and to demonstrate how well the UNCRC Principles are embedded within GIRFEC. (Organisation)*

A widely-held view was children's rights should be incorporated into existing policy and law to improve clarity of how rights are relevant across sectors and topics, and to encourage robust engagement in embedding children's rights.

*[Our] research shows that CRC incorporation in and of itself is significant [...] The very process of incorporation raises awareness of children's rights and the CRC in government and civil society. In countries where there has been incorporation (Belgium, Norway and Spain), our research showed that children were more likely to be perceived as rights holders and that there was a culture of respect for children's rights. (Organisation)*

<sup>25</sup> <https://www2.gov.scot/Topics/People/Young-People/gettingitright>

<sup>26</sup> <https://www.gov.scot/policies/girfec/wellbeing-indicators-shanarri/>

## Evaluating performance

Among the majority in favour of the Action Plan, there was a group who called for greater focus on evaluating how children's rights are performing in Scotland. Often, they focused on measurement to identify best practice and areas of improvement.

Individuals and organisations proposed a clearer feedback mechanism to make sure that children's rights were enforced by making the reporting of their violations from children easier.

*The creation of a valid and reliable survey instrument for young people to complete would allow for national baseline measures to be created, for progress over time to be noticed, and for local authorities and schools themselves to use to gauge where gaps are needing to be addressed. (Individual)*

*[Ensure] that there is a mechanism for appeal when a child feels their rights have been violated. (Individual)*

Respondents desired greater clarity of the expectations of the Action Plan. They suggested using external bodies' frameworks to go into greater detail about what best practice in children's rights looks like, whilst attempting to do so impartially.

*Rather than having a summary of initiatives, it would be useful for the Scottish Government to map out specific actions against each Article of the UNCRC. This would provide greater clarity about progress towards tangible change rather than a list of initiatives and outline where improvements are required in terms of realising children's rights. (Organisation)*

## Evaluation and enforcement of the Child Rights and Wellbeing Impact Assessment (CRWIA)

Child Rights and Wellbeing Impact Assessments (CRWIAs) (the focus of Action 4 in the consultation) were well-known among organisations but there were calls for these assessments to be used more frequently and more user-friendly.

Both organisations and SurveyMonkey respondents expressed a desire for *more* CRWIAs to be carried out. Some suggested making CRWIAs a legal requirement under certain conditions, such as where an issue led to explicit concerns about adherence with the UNCRC.

*If it is clear the CRWIAs are not being used regularly enough or in the correct fashion the Scottish Government could consider making these a requirement with statutory guidance that outlines how they should be completed. (Organisation)*

*We hope that, where an issue directly relates to UNCRC concerns, a CRWIA will be undertaken as a matter of course, assessing both the impact of implementing new policy/practice and the impact if no change is made. (Organisation)*

Organisations expressed a disappointment that CRWIAs are not used as frequently as they ought to be.

*We have been disappointed that the CRWIA has not been used more widely since its introduction. (Organisation)*

Organisations, although supportive of CRWIAs, wanted them to be pushed to more bodies and to be more user-friendly, especially as they concerned children and young people. There were related calls for more guidance for CRWIA users.

*The current CRWIA would benefit from being simplified to make the CRWIA process more accessible and effective and in turn inform better rights-based policymaking. (Organisation)*

*CRWIAs need to be streamlined and easy to use – they also need to be promoted more widely amongst all public bodies who work with children. (Organisation)*

*We would also advocate for clear guidance to support policy makers carrying out CRWIAs. They should be provided with information on what a good CRWIA looks like, how it is structured and when it should be carried out. They also should be provided with written guidance to help make CRWIAs more accessible. This will ensure that children, young people and families can engage with these and become more involved in the policy making process. (Organisation)*

One respondent focused on assessment publish times and called for them to be shorter.

*Based on our research, [we recommend] that the Scottish Government [...] ensures CRWIAs are published within two weeks of being submitted to the central team. (Organisation)*

## Conclusions

Respondents welcomed the Action Plan and the majority agreed with the proposed high-level content of the Action Plan:

- i. Identified overarching strategic actions intended to secure transformational change in how children and young people experience their rights
- ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles.
- iii. Key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives.

Respondents welcomed the specific actions for inclusion in the Action Plan, the majority viewed the inclusion of the four strategic actions proposed by Scottish Government to be appropriate to help take forward the principles of the UNCRC:

- i. Development of a dynamic Participation Framework for Children and Young People.
- ii. Ambitious delivery, through co-production, of the 3-year children's rights awareness programme.
- iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law.
- iv. Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA).

While the strategic actions are broadly accepted by respondents, the respondents shared their views on what more the Scottish Government could do to maximise the successful embedding of children's rights into policy and practice, including:

- **Embedding the UNCRC principles into policy, practice and legislation:** while there is overwhelming support for the integration of the UNCRC principles, the Action Plan could include more detail on how the strategic actions could be linked to each Article of the UNCRC
- **Build on existing good practice:** the government and key stakeholders could identify and harness relevant literature and good practice that have successfully demonstrated how to engage young people and develop actionable frameworks.
- **Engage children and young people, including the most vulnerable groups:** the consultation document requires more detail on the groups of vulnerable children that will be considered and involved in the development of the participation framework. Further details could also illustrate how seldom heard groups will be engaged in the implementation of the Action Plan
- **Collaborative working with key organisations:** the government could look to further empower and collaborate with third-sector organisations and children's services to target, access and engage *all* groups of children and young people
- **Permeate and reach all policy areas:** the promotion of children's wellbeing could be reinforced with effective and considered legislation in other policy areas, including education, health and social care, and the legal and criminal justice system.
- **User-friendly and accessible outputs:** deliverables should be framed in user-friendly and non-technical language, in formats that appeal and can reach a broad audience of children and young people



- **Raise awareness of children’s rights by influencing existing channels:** the government and key stakeholders should identify existing channels, such as parents and schools, to ensure that the voices of children and young people are heard
- **Evaluation and enforcement of the Child Rights and Wellbeing Impact Assessment (CRWIA):** CRWIAs are well-known, but there is a desire for the assessments to be used more frequently, be made more accessible and provided with clearer guidance.

**Appendix 1: Progressing Children’s Rights in Scotland: An Action Plan 2018-21 - Consultation**

# **Progressing Children’s Rights in Scotland: An Action Plan 2018-21**

## **Consultation**

June 2018

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## 1. Introduction

1.1 The Scottish Ministers' aim is for Scotland to be the best place to grow up, be educated and to bring up children and young people. Underpinning this ambition is our firm commitment to respecting, protecting and fulfilling the rights of all of our children and young people. Our approach to children's rights is central to our wider ambition to ensure dignity, equality and human rights for all. Children's rights have informed the development and organisation of the current Year of Young People 2018, a global first. We are determined that the legacy of this Year continues into the future.

1.2 This consultation focuses on the content and format of the Action Plan that the Scottish Ministers are required to lay before the Scottish Parliament, setting out their plans for taking forward children's rights in line with provisions in Part 1, s.1(4)(c) of the Children and Young People (Scotland) Act 2014 (2014 Act). The intention is to lay the Action Plan before Parliament later this year, following appropriate consultation and engagement activity, with children and young people and others.

### Children's Rights in Scotland

1.3 The United Nations Convention on the Rights of the Child (UNCRC) sets out the civil, political, economic, social and cultural rights to which all children are entitled, regardless of their circumstances or background. The UK Government ratified the UNCRC in 1991. Arrangements for taking forward the Convention and the children's rights agenda within the UK (the signatory state Party) reflect the separate constitutional responsibilities of constituent administrations. The Scottish Ministers, therefore, have responsibilities for the progression of children's rights in Scotland with reference to devolved public services and legislation, including in relation to education, health, childcare, housing, etc.

1.4 The UN Committee on the Rights of the Child undertakes regular reviews of how state parties, including the UK, are meeting their obligations with respect to the UNCRC. As part of this process, state parties are required to report to the UN Committee approximately every 5 years on their progress in taking forward children's rights. The Concluding Observations following from the Committee's most recent review of the UK state party, including Scotland, were published in final form in July 2016<sup>27</sup>.

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<sup>27</sup> [CRC/C/GBR/CO/5](https://www.unhcr.org/refugees/crc/c/GBR/CO/5)

## **Part 1 of the Children and Young People (Scotland) Act 2014**

### **Duties on Scottish Ministers in relation to the rights of children**

1.5 In addition to the required reporting to the UN Committee on the Rights of the Child, section 1(1) of 2014 Act places 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 requirements”; and, if appropriate,
- “take any of the steps identified by that consideration”.

1.6 The Act further specifies that, in complying with these duties, the Scottish Ministers must “take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware” (s.1(2)). Ministers are also required to promote public awareness and understanding of the rights of the child, including amongst children (s.1(3)).

1.7 In support of these duties, the Scottish Ministers introduced a Child Rights and Wellbeing Impact Assessment (CRWIA), which ensures that all Scottish Government portfolios consider how proposed new policies and legislation might impact on the rights and wellbeing of children and young people. The need to seek the views of children and young people is a key requirement of the CRWIA.

### **Duty to Report to the Scottish Parliament on Children’s Rights**

1.8 In accordance with s.1(4) (a-c) of the 2014 Act, the Scottish Ministers must report to Parliament every 3 years on the “steps they have taken in that period to secure better or further effect in Scotland of the UNCRC requirements” and to promote public awareness and understanding of the rights of the child. Ministers must also set out their plans until the end of the next 3 year period.

1.9 It is proposed that this reporting requirement will be separated into a Report on the actions taken by Ministers to secure better or further effect of the UNCRC and to promote public awareness and understanding of children’s rights since the Part 1 duties first commenced in 2015. A separate Action Plan will set out key activities that will be taken forward from June 2018 until June 2021.

### **Engagement with Children and Young People in preparing the Action Plan**

1.10 Section 1(5) of the 2014 Act requires Ministers to take such steps as they consider appropriate to obtain the views of children and young people on their 3 year plans for taking forward children’s rights.

1.11 Annex B sets out the engagement with children and young people that has taken place to date. There will be further opportunities over the coming months for more children and young people, including younger children, to contribute. The development of the Action Plan will also draw on other available sources of information about the current views and interests of children and young people across Scotland.

## **2. Proposed Content of Report – 2015-18**

2.1 As required under Part 1 of the 2014 Act, the 3 year Report will set out the steps taken by Scottish Ministers during the 3 year period from June 2015, when the duties were first commenced, until June 2018 to:

- secure better or further effect in Scotland of the UNCRC requirements; and
- promote public awareness and understanding of the rights of children, including among children and young people.

2.2 The Report, which will be organised under the ‘cluster groupings’ used in reporting to the UN Committee, will include actions taken across all portfolios to progress children’s rights. It will also report on the steps taken by Scottish Ministers to respond to the UN Committee on the Rights of the Child’s Concluding Observations, following the previous review of the UK State party in May 2016, and the recommendations made by other UN treaty monitoring bodies, as appropriate. As a Scottish Government Report reflecting policy developments in relation to children’s rights over the period 2015-18, the content is not subject to this consultation.

## **3. Proposed Content of Action Plan**

3.1 In line with s.1(4)(c) of the 2014 Act, the Action Plan will cover Scottish Ministers’ plans for taking forward children’s rights from 15 June 2018 until June 2021. As with the Report, the Action Plan will also be organised around the ‘cluster groupings’ used in reporting to the UN Committee.

### **Proposed Strategic Actions to Further Promote and Embed Children’s Rights**

3.2 The Scottish Ministers’ aim in taking forward their first Action Plan under Part 1 of the 2014 Act is to deliver transformational change in how children and young people experience their rights. It is proposed, therefore, that the Action Plan 2018-2021 will be a key vehicle for delivering a number of wider, strategic actions intended to support the taking forward of the UNCRC principles. These strategic actions will aim to further promote and embed children’s rights across Scottish Government portfolios and beyond.

3.3 This consultation document seeks views on the inclusion of the following strategic actions within the Action Plan:

- the development of a dynamic Participation Framework for Children and Young People, building on the legacy of the 2018 Year of Young People;
- the ambitious delivery, through co-production, of the 3 year children's rights awareness programme announced in the 2017-18 Programme for Government, which will seek to raise awareness of children's rights across all sectors of society;
- progressing the children's rights audit on the most effective and practical ways to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law, also announced in the 2017-18 Programme for Government; and
- evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA).

These will be discussed in more detail at Section 4 below.

### **Specific Actions Relevant to Securing Better or Further Effect of the UNCRC Requirements**

3.4 Responsibilities for taking forward children's rights are mainstreamed across all portfolios within the Scottish Government. The principles of the UNCRC are, therefore, already taken into account in the development of relevant Scottish Government policies, strategic frameworks, action plans and other key documents. This includes, for example, A Fairer Scotland for All: Race Equality Action Plan 2017-21; Equally Safe – A Delivery Plan for Scotland's Strategy to Prevent Violence against Women and Girls (2017); Every Child, Every Chance – The Tackling Child Poverty Delivery Plan 2018-22; the 2018 National Improvement Framework and Improvement Plan for Scottish Education; etc. Further examples of these documents and initiatives are attached in Annex A.

3.5 It is not proposed that the Action Plan will duplicate all of the actions being taken forward in the documents referred to above. Rather, to fully capture and represent all that Scottish Ministers intend to achieve in relation to the rights of the child between 2018 and 2021, it is suggested that the Action Plan should include a non-exhaustive list of these wider policy specific initiatives and highlight a number of key actions from these, particularly those most relevant to taking forward the UN Committee on the Rights of the Child's Concluding Observations. This is consistent with the mainstreaming of rights across Scottish Government.

3.6 In addition to this, it is proposed that, where appropriate, the Action Plan will also include a number of policy specific actions that have been identified through the consultation process and which are not currently provided for within the initiatives mentioned above. Section 4 of this document seeks your views on what other specific actions you consider should be included within the Action Plan. As far as practicable, identified actions in the Plan will be specific, measurable and timed.



3.7 The following question seeks your views on the proposed high level content of the Action Plan. Subsequent questions seek your views on specific actions for inclusion in the Plan.

#### Question 1 – High Level Contents of the Action Plan

Do you agree that the Action Plan should include:

- i. Identified strategic actions intended to secure transformational change in how children and young people experience their rights. Yes/No
- ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles. Yes/No
- iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives. Yes/No

Where you answered 'No' to any of the above questions – please provide your reasons why you did not agree.

## 4. Strategic and Specific Actions

4.1 This consultation seeks views on a number of strategic actions that we think can collectively deliver transformational change in how children and young people experience their rights. Each of the proposed strategic actions are set out in detail below.

### Strategic Participation Framework

4.2 It is proposed that a key action within the Action Plan would be the commitment to scope out, in consultation with children and young people and relevant partners, the development of a strategic framework to better support the participation of children and young people at national and local levels.

4.3 We are currently developing a more coordinated, systematic and sustainable approach to engaging with children and young people at national and local levels, with our focus to date on developing this approach at national level. Examples include:

- Our annual Cabinet meeting with children and young people, which has now taken place twice in 2017 and 2018, and is the only meeting of its kind to take place in the UK. Actions are collectively agreed at the meeting by children, young people and Cabinet members and are then taken forward by the Scottish Government over the coming year and reported on prior to the next meeting. This

meeting demonstrates our real commitment to ensuring that children and young people's voices are listened to and taken seriously at the highest level in government.

- We work closely with national youth information and citizenship organisations to help children and young people to participate in and influence local and national activities and decisions. Through these organisations, children and young people have given us their views on a wide range of topics - including the age of criminal responsibility, mental health, STEM strategy and child poverty.
- We are raising awareness across the Scottish Government of the importance of engaging with children and young people during policy and Bill development. One example is our Children and Young People Community of Interest, whose aim is to join up work across the Scottish Government so that we deliver ambitious, coordinated policy for children and young people, which meets two to three times a year to discuss topical issues.

4.4 However, we recognise that more could be done. We want to make sure that: participation of children and young people becomes mainstreamed across Scotland, both at national and local levels, and includes more vulnerable groups and younger children as a matter of course; children and young people's views are heard on issues of national significance, such as Brexit; local areas are given more support to engage with children and young people when making local decisions that affect them; and that children and young people are empowered so that they can confidently express their views as Human Rights Defenders.

4.5 We believe that the time is right for us to start to develop a strategic participation framework during the Year of Young People (YoYP). We have this incredible opportunity to strengthen the voices of children and young people even further and make sure that they can significantly influence public services and decisions which affect their lives.

4.6 Initial thinking is that the proposed framework would include:

- utilisation of digital methods and platforms to support wider engagement with children and young people in an efficient and effective manner;
- a system to match demand for participation to capacity, with the aim of taking a more strategic Scottish Government approach to participation;
- a central resource to enable Scottish Government business areas to engage with children and young people on policy and legislation and increase the capacity of the third sector to undertake this work;
- an evidence base of existing research and new learning about best practice in participation.

4.7 Another key aim of the framework over the 3 year period will be to ensure the participation of children and young people in decisions associated with the UK's withdrawal from membership of the EU, given the long-term implications of Brexit, especially for young people.

4.8 Feedback received to date from children and young people demonstrates strong support for measures which can further promote the participation of children and young people, particularly the most vulnerable, in the decisions that affect them.

## **Raising Awareness of Children's Rights**

4.9 Fundamental to embedding children's rights fully within Scottish society, is a Scotland wide knowledge and understanding of children's rights and how to act on them. Under s.1(3) of the 2014 Act, Scottish Ministers have a duty to promote public awareness and understanding of the rights of the child, including among children and young people themselves. A range of specific actions to raise awareness of children's rights, and wider human rights, has been taken forward since the duties first commenced in 2015, including through activities as part of the 2018 Year of Young People.

4.10 In addition, the Programme for Government 2017-18, "A Nation with Ambition", includes the commitment to take forward a three-year programme to raise awareness of children's rights, including among children and young people. The Scottish Government is aware that the effective delivery of this commitment will require Ministers and key stakeholders, including public bodies, civil society and children and young people themselves, to work together collectively and in partnership. For this reason, we intend to shape, plan and implement a programme of activity with partners using a model of co-production.

4.11 Subject to discussions with partners, we expect that the programme will target all duty bearers under the UNCRC, including local authorities, relevant public bodies, and professionals delivering key services for children and young people. The programme will also seek to raise awareness of the Convention and the rights of children amongst parents and carers and children and young people themselves. A partnership approach will also be taken to planning the programme, implementation and evaluation

4.12 Feedback from children and young people has demonstrated considerable support for the development of a comprehensive programme for raising awareness of the rights of the child across all sectors of Scottish society and has stressed the important contribution that this would make towards the ongoing development of a rights-based culture across Scotland.

## Embedding the UNCRC

4.13 The Programme for Government 2017-18, included the commitment to undertake a comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law.

4.14 The audit is now underway and will look across legislative and delivery issues relevant to children's rights and the principles underpinning the UNCRC. Work around the audit will seek to include the views of children and young people.

4.15 The audit, and the findings of this exercise, will be the key focus of Scottish Government activity in considering how the rights of the child might be taken forward over the next 3 year period. The audit team will liaise with the First Minister's Advisory Group on Human Rights Leadership<sup>28</sup> on matters of mutual interest.

### Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA)

4.16 Consistent with Ministers' commitment to mainstream responsibilities for children's rights, the Child Rights and Wellbeing Impact Assessment (CRWIA) was introduced in June 2015 to ensure that all areas of the Scottish Government consider the possible direct and indirect impacts of proposed policies and legislation on the rights and wellbeing of children and young people. The CRWIA, which was developed by a children's rights expert, in consultation with relevant stakeholders, is used across the Scottish Government as a key tool in the development of rights-based policy.<sup>29</sup>

4.17 Although not a statutory requirement, there is a clear Ministerial expectation that CRWIAs will be undertaken for all new policies and legislation, in line with the duty on Ministers to consider children's rights under Part 1 of the 2014 Act.

4.18 Guidance on the CRWIA approach has also been published for use by public authorities (and other organisations) when developing and refreshing local policies and procedures, should they wish to use this resource.

4.19 Given the important contribution of the CRWIA in delivering Ministers' ambition to place children and young people at the centre of relevant policy decisions, it is proposed that an evaluation of the current CRWIA should be commenced by 2020, a full five years after its introduction.

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<sup>28</sup> <https://beta.gov.scot/groups/first-ministers-advisory-group-on-human-rights-leadership/>.

<sup>29</sup> CRWIAs published on the Scottish Government website can be accessed at: <https://beta.gov.scot/search/?q=crwia>

## **Specific Actions Relevant to Securing Better or Further Effect of the UNCRC Requirements**

4.20 As discussed above, responsibilities for children's rights are mainstreamed across all areas of the Scottish Government, with actions for progressing the UNCRC included within a number of Scottish Government action plans, frameworks and other key documents, many of which have their own arrangements for monitoring progress and delivery of specific actions and commitments.

4.21 It is not proposed that the Action Plan should duplicate all of the actions being taken forward currently via these wider initiatives. However, we would welcome views on any specific actions, not currently included in these documents, which you consider should also be included within the Action Plan.

### **Proposed Strategic Actions**

Question 2: Do you agree that the 4 proposed strategic actions are appropriate and will help to take forward the principles of the UNCRC?:

- i. Development of a dynamic Participation Framework for Children and Young People. Yes/No
- ii. Ambitious delivery, through co-production, of the 3 year children's rights awareness programme. Yes/No
- iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law. Yes/No
- iv. Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA). Yes/No

Question 3: Are there ways in which the proposed strategic actions listed above could be further strengthened? – please specify.

Question 4: Are there additional or alternative strategic actions that the Scottish Ministers should consider? – please specify.

Question 5: Are there any specific actions – not currently being progressed within a wider Scottish Government action plan, framework or other initiative, - that should be considered for inclusion within the Action Plan?

## ANNEX A

### Mainstreaming of Children's Rights – Examples of Key Initiatives Taking Forward Children's Rights

1. Responsibility for taking forward children's rights is mainstreamed across all portfolios within the Scottish Government. The principles of the UNCRC are, therefore, already taken into account in the development of relevant Scottish Government policies, strategic frameworks, action plans and other key documents, covering all areas relating to the health and wellbeing of children and families.

2. It is not proposed that the Action Plan will duplicate all of the actions being taken forward in these other Scottish Government initiatives. Rather, to fully capture and represent all that Scottish Ministers intend to achieve in relation to the rights of the child between 2018 and 2021, we suggest that the Action Plan includes a non-exhaustive list of these strategic documents. A number of these are included below. This is not a comprehensive list but provides an illustration of the wide range of initiatives and activity being taken forward:

- **Child Protection Improvement Programme Report and Child Protection Systems Review Report Recommendations (2017)**  
The Child Protection Improvement Programme report sets out 35 Actions covering children's hearings; leadership and workforce development; inspections of children's services; neglect; data and evidence; child sexual exploitation; child internet safety; and trafficking. The Systems Review report makes 12 recommendations, covering Initial and Significant Case Reviews, Child Protection Committees, the Child Protection Register, and matters of leadership, governance and accountability. Progress is being monitored through the National Child Protection Leadership Group, chaired by the Minister for Childcare and Early Years.
- **National Action Plan on Internet Safety for Children and Young People (2017)**  
The Action Plan sets out specific actions under three broad aims – giving everybody the skills, knowledge and understanding to help children and young people stay safe online; inspiring safe and responsible use and behaviour online; and creating a safer online environment. A progress report will be published in 2019.
- **A Fairer Scotland for All: Race Equality Action Plan 2017-21 (2017)**  
The Race Equality Action Plan outlines actions being taken over the course of the Parliament to make real improvements in the lives and experiences of minority ethnic communities in Scotland as part of the 15 year Race Equality Framework. The Plan seeks to advance race equality, tackle racism and address the barriers that prevent people from minority ethnic communities from realising their potential. A progress report will be published in 2021. A Programme Board has been established to oversee the implementation of the Action Plan, with membership drawn from senior levels across the Scottish Government.

- **Equally Safe - A Delivery Plan for Scotland's Strategy to Prevent Violence Against Women and Girls (2017)**  
 The Delivery Plan sets out the actions the Scottish Government, COSLA and partners will take to prevent and ultimately eradicate all forms of violence against women and girls (VAWG), including the impact for children and young people. The Delivery Plan includes a range of actions relevant to children and young people, including prevention within schools and ensuring more effective, trauma-informed support for children and young people affected by VAWG. Progress on the specific actions in the delivery plan will be reported annually.
- **Every Child, Every Chance - The Tackling Child Poverty Delivery Plan 2018-22 (2018)**  
 The Delivery Plan, backed by a range of investment, including the £50 million Tackling Child Poverty Fund, sets out the action we will take to make progress towards Scotland's ambitious child poverty targets, set for 2030. Its actions are organised in two ways: actions to make progress on the three main drivers of child poverty (income from work and earnings; costs of living; income from social security); and actions that take account of the need to help families in other ways, to improve their lives in the short term, and work closely with our partners to deliver our ambition. Annual Reports will be published on the progress being made against delivery of the actions within the Plan and against the targets set. The first progress report is due for publication in 2019.
- **Justice in Scotland: Vision and Priorities (2017)**  
 The Vision and Priorities document, agreed jointly by the Scottish Government and key justice organisations, sets out collective priorities to ensure a just, safe and resilient Scotland, with established priorities for 2017 to 2020. The document focuses specifically on prevention and early intervention, drawing on the successful youth justice reforms and the Whole System Approach for young people at risk of offending. The Justice Vision and Priorities is accompanied by a Delivery Plan that sets out actions to help progress the priorities. This Plan will be updated annually with the first report on progress scheduled for September 2018.
- **Mental Health Strategy 2017-2027 (2017)**  
 The Strategy sets out a central vision for Scotland where people can get the right help at the right time, expect recovery, and fully enjoy their rights, free from discrimination and stigma. It sets out 40 actions organised under 5 key headings: prevention and Early Intervention; access to Treatment and joined-up, accessible services; the physical wellbeing of people with mental health problems; rights, information use, and planning; and data and measurement. The plan includes a range of specific actions relevant to children and young people, including the commitment to develop a matrix of evidence-based interventions to improve the mental health and wellbeing of children and young people. A specific reporting process for the Strategy is in place and is being developed further.

- **A Fairer Scotland for Disabled People: Our Delivery Plan to 2021 for the United Nations Convention on the Rights of Persons with Disabilities (2016)**  
The Delivery Plan has five long-term ambitions and 93 actions aimed at changing the lives of disabled people in Scotland and ensuring that their human rights are realised. The actions include a range of measures relevant to children and young people and supporting the families with disabled children and young people.
- **2018 National Improvement Framework and Improvement Plan for Scottish Education (2018)**  
The National Improvement Framework and Improvement Plan document is designed to help deliver the twin aims of excellence and equity in education. It serves as the single, definitive plan for securing educational improvement through six key improvement drivers: school leadership; teacher professionalism; parental engagement; assessment of children's progress; school improvement; and performance information. Through the National Improvement Framework and the annual Evidence Report, we will build up a clear picture of progress across the key drivers and of overall progress towards our key priorities.
- **Respect for All: National Approach to Anti-Bullying (2017)**  
Scotland's national approach to anti-bullying aims to build capacity, resilience and skills in children and young people to prevent and deal with bullying. The approach is underpinned by the values of fairness; respect; equality and inclusion. It includes an explicit commitment to addressing prejudice-based bullying. The report sets expectations for the recording and monitoring of bullying and anti-bullying activity.

### **Further Actions and Activity**

3. In addition to the strategies and action plans listed above, a range of further activity is being taken forward that will have a positive effect on how children and young people experience their rights. This includes:

- The development by the Scottish Government, along with key partners in the public and third sector, of a 10-year Child and Adolescent Health and Wellbeing Action Plan, which will cover both physical and mental wellbeing.
- Scottish Ministers' response to the report *Rethinking Legal Aid*, An Independent Strategic Review, published in February 2018, setting out a 10 year vision for legal aid in Scotland. The report's recommendations are currently being analysed and discussions are ongoing with stakeholders such as the Law Society of Scotland, the Faculty of Advocates, the Scottish Legal Aid Board and others in the third sector to seek their views. Once this analysis is complete, a Scottish Government response will be issued. In conjunction, the Scottish Government is looking at children's legal aid with the aim of identifying possible improvements to the current system.
- The current progress through Parliament of a Scottish Government bill to raise the Age of Criminal Responsibility in Scotland.



- Lord Bracadale’s Independent Review of Hate Crime Legislation was published in May 2018. Ministers accept the report’s recommendation to consolidate all Scottish hate crime legislation into one new hate crime statute. We will use the report and recommendations as the basis for consulting on the detail of what should be included in a new Hate Crime Bill.
- Scottish Ministers’ support for John Finnie’s proposal for legislation to remove a current defence for parents, guardians and other persons with charge or control over children and provide children and young people with equal protection from assault.
- The Scottish Government is running a consultation on the Review of Part 1 of the Children (Scotland) Act 1995 and creation of a Family Justice Modernisation Strategy. The consultation covers a wide range of issues that affect children including how best to obtain the views of the child in family cases, support for the child, the role of family members and how victims of domestic abuse can best be protected.

## ANNEX B

### Engagement With Children and Young People

1. Section 1(5) of the Children and Young People (Scotland) Act 2014 requires Ministers to take such steps as they consider appropriate to obtain the views of children and young people on their plans for taking forward children's rights under s.1(4)(c) of the Act.
2. The engagement with children and young people that has taken place to date is detailed below.

### Engagement with Children and Young People

3. The following events provided an opportunity for children and young people to discuss how they are experiencing their rights currently and how this might inform future priorities and actions:
  - 4 and 15 December 2017: with the assistance of the Scottish Youth Parliament (SYP) and Together Scotland, the Minister for Childcare and Early Years met with groups of young people from a range of backgrounds, and the organisations that represent them, in Fife and Glasgow as follows:
    - Fife Gingerbread's Teen Parent Group
    - Youth 2 (LGBT Group)
    - Levenmouth Academy, Fife
    - The Coalition for Racial Equality and Rights
    - Centre for Youth and Criminal Justice
    - Clan Childlaw
    - Who Cares? Scotland

Each session was ably facilitated by a Member of the Scottish Youth Parliament.

- 6 March 2018 – The Scottish Cabinet, including the First Minister, Deputy First Minister and Cabinet Secretaries met with 14 Children and Young People aged 9 to 25, with representation from a range of vulnerable groups including care experienced children. This followed the inaugural meeting of children and young people with the Cabinet in 2017.<sup>30</sup>
- 18 April 2018 – At the request of the Scottish Government, SYP organised a Rights Review Event. This event was attended by 27 MSYPs, 3 Cabinet Secretaries, 5 Scottish Ministers and around 30 Scottish Government officials. The event involved the MSYPs presenting the views of their constituents (in total 4,190 consulted) on the issues that are

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<sup>30</sup> [Actions Agreed At The Cabinet Meeting With Children and Young People](https://beta.gov.scot/publications/second-annual-meeting-of-ministers-with-children-and-young-people/) (February 2017). Actions from the Cabinet meeting with children and young people in March 2018 can be accessed at: <https://beta.gov.scot/publications/second-annual-meeting-of-ministers-with-children-and-young-people/>.

important to them. The views of vulnerable children and young people were also presented including those of disabled children and young people, looked after children, LGBT young people, young carers, and young refugees. In addition, young people from Christian and other faith groups, and those from rural communities were also represented.

- A number of Children's Parliament events are scheduled to take place during the consultation period. These will allow Ministers to hear the views of younger children on the content of the Action Plan.
- There will be further opportunities during the consultation period for children and young people to inform the development of the Action Plan. This will include Scotland-wide distribution of the consultation, at a local level, via our Communic18 and YoYP Ambassadors networks. With over 400 young people across both programmes, we have a wide and varied reach. We will also ensure digital collaboration between the Scottish Government and our wide range of partners in the Third Sector. YoYP policy leads across the Scottish Government will also distribute the consultation via their relevant groups to ensure coverage is as wide as possible.

### **Other Sources of Information about the views of Children and Young People**

- In addition, the views of children and young people reported in a number of recent resources have also informed the proposed strategic actions set out in Section 4 of this document and will also inform the finalised Action Plan. These resources include the following:
  - Lead the Way, the Scottish Youth Parliament Manifesto 2016-2021, based on 72,744 responses from young people.
  - I Witness: The Concluding Observation (2018), Article 12 in Scotland's report, presenting the views of vulnerable children and young people on how the Scottish Government should take forward the UN Committee on the Rights of the Child's Concluding Observations.
  - What Kind of Scotland? Children influencing Scotland's Future (2017), a report compiled by the Children's Parliament on the kind of Scotland children want to live in.

### **Engagement undertaken in developing individual policies**

- As discussed throughout this document, responsibility for taking forward children's rights is mainstreamed across all portfolios of the Scottish Government. The above engagement with children and young people is, therefore, in addition to that undertaken by officials in the development of individual policies and legislation, including as part of the CRWIA process. Examples of current or recent relevant consultations and engagement include:
  - Children's Parliament, "The Weight on Our Shoulders" Consultation on the Child Poverty Bill and Delivery Plan (February 2018), which informed the development of Every Child, Every Chance - The Tackling Child Poverty Delivery Plan 2018-22 (2018)

- Creating a Fairer Future, Young People's ideas for race equality in Scotland (November 2017)
- Family Law – A child friendly online questionnaire has been prepared as part of the current consultation on the Review of Children (Scotland) Act 1995 and Family Justice Modernisation Strategy. We have tested the questions in the child friendly version with a number of children and young people to ensure it is accessible.

We appreciate that completing a questionnaire may not be the preferred option for some children and young people. Therefore, we are working with stakeholders to arrange meetings with children and young people across Scotland. This includes a workshop at the Scottish Youth Parliament sitting on 9th June and meetings organised by the Children's Parliament and Scottish Women's Aid.

- Ongoing engagement with disabled young people through the Young Disabled People's Forum.
- Age of Criminal Responsibility - Alongside wider public consultation – engagement was undertaken with over 200 young people including those with contact with the justice system, either as perpetrators or victims. They expressed overwhelming support for proposals for raising the Age of Criminal Responsibility.
- Mental health – detailed engagement with children and young people informed the development of the Mental Health Strategy 2017-27.
- Equally Safe – the findings of a pilot participation project for children and young people with lived experience of gender based violence, which took place between March and October 2017, informed the development of the Equally Safe Delivery Plan.

## RESPONDING TO THIS CONSULTATION

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

### Responding to this Consultation

We are inviting responses to this consultation by 26 September 2018. Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). You may access and respond to this consultation online at <https://consult.gov.scot/children-and-families/childrens-rights> You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 26 September 2018. If you are unable to respond online, please send your response with a completed Respondent Information Form (see "Handling your Response" below) to:

Rights and Participation Team

Scottish Government

Area 2B South

Victoria Quay

Edinburgh, EH6 6QQ

## Handling your response

If you respond using the consultation hub, Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to inform the decision making process. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to [childrensrightsandparticipation@gov.scot](mailto:childrensrightsandparticipation@gov.scot)

## RESPONDENT INFORMATION FORM

Progressing Children's Rights in Scotland: An Action Plan 2018-21

Please Note this form must be completed and returned with your response.

Are you responding as an individual or an organisation?

Individual       Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes       No

## SUMMARY OF CONSULTATION QUESTIONS

1. Do you agree that the Action Plan should include:
  - i. Identified strategic actions intended to secure transformational change in how children and young people experience their rights. Yes/No
  - ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles. Yes/No
  - iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives. Yes/No

Where you answered 'No' to any of the above questions – please provide your reasons why you did not agree.

2. Do you agree that the 4 proposed strategic actions are appropriate and will help to take forward the principles of the UNCRC?

- i. Development of a dynamic Participation Framework for Children and Young People. Yes/No
- ii. Ambitious delivery, through co-production, of the 3 year children's rights awareness programme. Yes/No
- iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law. Yes/No
- iv. Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA). Yes/No

3. Are there ways in which the proposed strategic actions listed above could be further strengthened? - please specify.

4. Are there additional or alternative strategic actions that the Scottish Ministers should consider? - please specify.

5. Are there any specific actions - not currently being progressed within a wider Scottish Government action plan, framework or other initiative, - that should be considered for inclusion within the Action Plan?





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