

The Scottish Government Response

**Consultation analysis report: Guidance on
Children's Rights (Part 1, section 2) and
Children's Services Planning (Part 3) of the
Children and Young People (Scotland) Act 2014**

November 2016



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This is the Scottish Government response to the key findings in the [consultation analysis report on draft guidance on Children's Rights \(Part 1, section 2\) and Children's Services Planning \(Part 3\) of the Children and Young People \(Scotland\) Act 2014](#), which was published on 30 September 2016.

Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 (the "Act") places a duty on a range of public bodies (including all local authorities and health boards) to report, as soon as practicable after the end of each three-year period, on the steps they have taken to secure better or further effect within their areas of responsibility of the United Nations Convention on the Rights of the Child (UNCRC) requirements.

Part 3 of the Act places a duty on each local authority and the relevant health board, to jointly prepare a children's services plan for the area of the local authority covering a 3 year period. A range of other relevant local and national bodies are expected to be either consulted with, or obliged to participate, at various stages of the development of the plan. It also requires the local authority and relevant health board to jointly publish an annual report detailing how the provision of children's services and related services in that area have been provided in accordance with the plan.

The draft guidance to support Part 1 (section 2) and Part 3 was developed in partnership with the Children's Rights and Services Planning (CRiSP) Working Group, which comprised external stakeholders in planning and wider roles in local authorities, health boards and the third sector. This group was supported by four sub groups on Children's Rights, Outcome Reporting, Planning Structures and Governance and Prevention.

A public consultation on the draft guidance took place between 21 March and 13 June 2016. It invited views on the scope and use of the guidance and the relationship between Part 1 (section 2) and Part 3. Fifty eight responses were received, including from third sector organisations, local government, public bodies and health boards.

In response to the key findings set out in the consultation analysis report, the draft guidance will be revised and ready for publication during the Autumn 2016. The guidance will be widely disseminated to key stakeholder groups, including local authorities, health boards, community planning partnerships, public bodies and third sector organisations working with children and young people.

The key issues in the consultation analysis report are set out below.

Part 1 (section 2)

An Executive Summary was recommended by a number of respondents

The guidance will include an overview of the non-statutory guidance to signpost and reference the guidance content.

Links between the UNCRC articles and SHANARRI could be strengthened

The guidance will highlight that the illustrative list of UNCRC articles relating to SHANARRI indicators drawn from the CRWIA is not exhaustive. It will suggest that public authorities should consider if other UNCRC Articles are relevant by referring to the UNCRC.

An additional cluster, Violence against Children, has been added to the suggested framework for reporting in line with the UN Committee's expansion of the number of clusters used for state party reports.

There should be more references to engagement of disadvantaged or vulnerable children and young people

The guidance will expand reference to the different groups of children and young people that public bodies should engage with, and take account of, in developing reports. It will highlight that public authorities should take account of children and young people with diverse experiences, views and circumstances with specific attention being paid to children and young people who are marginalised and/or from minority groups.

There were requests for baseline or minimum national standards

The guidance will add emphasis to the paragraph on developing baseline data, suggesting that data should be measurable in order to inform the reports.

We have also developed the [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#), which is a policy development and improvement approach used by Scottish Government officials, but is also available for public authorities and others planning, delivering and reporting on children's services to adapt for their own uses, if they wish. The CRWIA has been designed to help support Ministers in meeting their duties under Part 1 of the Act and in relation to the UNCRC articles. The CRWIA helps to assess whether policies, measures and legislation will help further take forward children's rights in Scotland and protect and promote the wellbeing of children and young people, as defined by the SHANARRI indicators in the Act.

Some respondents asked for "give further effect" to be clarified

The guidance will include a clarification of the use of this term in order to inform public authorities' considerations of section 2 (1) of the Act.

'Rights' and 'wellbeing' should be clarified

An assessment of wellbeing is set out in Part 18 (section 96) of the Act, which came into force in Autumn 2016 and will be further defined in the statutory guidance, which will apply to this part of the Act. The materials supporting the CRWIA, referenced in the guidance, also explore the relationship between rights and wellbeing. The guidance will therefore not expand further.

Part 3

Guidance needs to be up-to-date and connect with wider policy and legislation

The appendices will be updated to reflect new legislation to date.

There should be more references to engagement of children and young people in developing children's services plans

There will be increased reference and emphasis threaded through the guidance on involving children and young people (including those from disadvantaged or vulnerable groups) and their families in developing children's services plans.

Children and young people's voices are a key element of the [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#), which is a policy development and improvement approach used by Scottish Government officials, but is also available for others planning, delivering and reporting on children's services to adapt for their own uses, if they wish.

In addition, a pilot exploring children and young people's participation in the planning process will be undertaken in early Spring 2017. Following the same approach as Scotland's National Action Plan for Human Rights (SNAP), we will provide participants (children, young people and planners) with the opportunity to share their views on how children and young people should be involved in the planning process at local level. The aim is to develop an agreed methodology for engagement, jointly owned by children, young people and planners. We plan to disseminate the product as a model of good practice with local authorities, health boards and community planning partnership areas, supplementing the Part 3 guidance.

The role of third sector organisations in developing children's services plans should be expanded

The guidance will not expand on the specific role of third sector organisations because the consultation responses related mainly to the legislation rather than the guidance.

However, the pilot on Part 3 (described above) will engage with third sector organisations, in their role as planners, allowing them to contribute to developing a methodology for engagement, jointly owned by children, young people and planners.

Further links between Part 3 and the duties in Part 1 (section 2), relating to the UNCRC should be made

As the legislation makes no connection between Part 1 (section 2) and Part 3 of the Act, we are unable to make the suggested further links in the guidance.

The Scottish Government role towards children's services plans should be explained

We will consider our role with respect to children's services plans in due course, taking account of the views of relevant stakeholders.



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