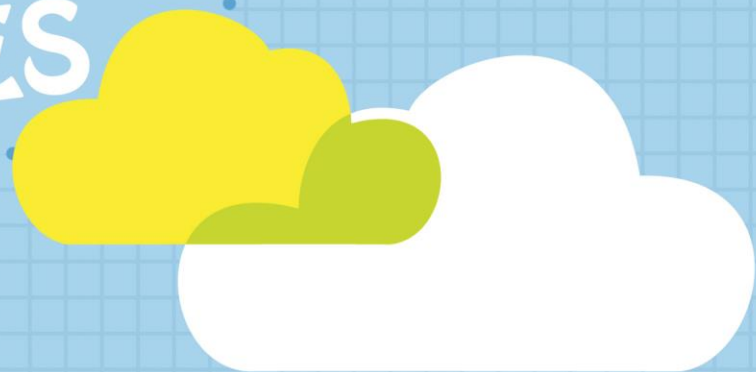


Getting it right

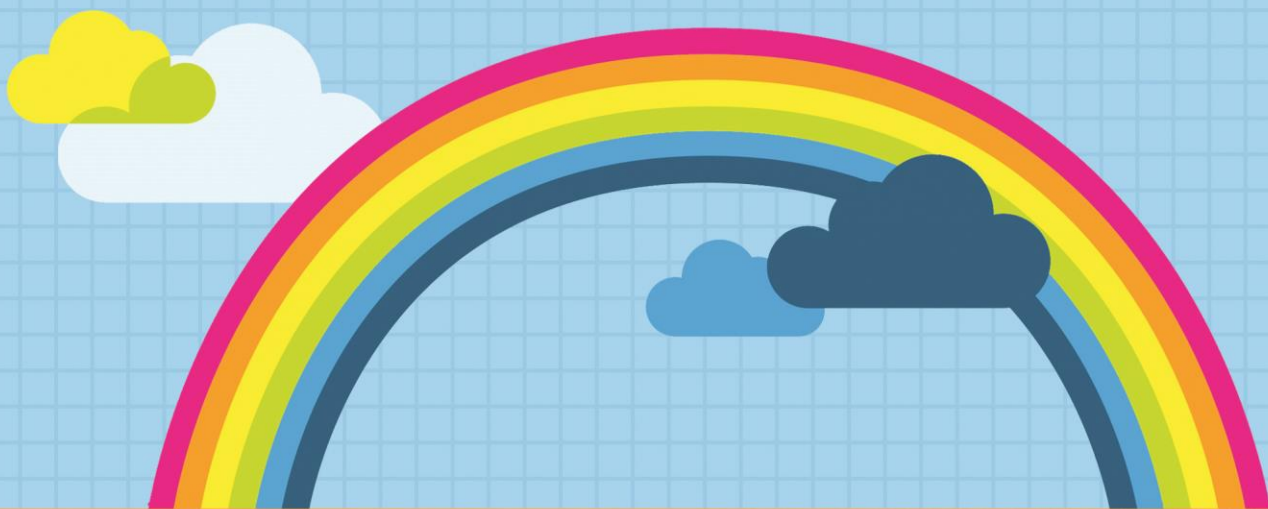
FOR CHILDREN AND FAMILIES



UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

List of issues in relation to the fifth periodic
report of the United Kingdom of Great Britain
and Northern Ireland

Scottish Government response



March 2016



The Scottish
Government
Riaghaltas na h-Alba

Introduction

1. The Scottish Government has an established record in promoting and safeguarding children's rights in line with our commitment to ensuring that all children and young people have the best possible start in life, regardless of their circumstances. The UN Convention on the Rights of the Child (UNCRC) is the foundation of the Scottish Government's approach to improving outcomes through public services that support the wellbeing of children and young people.
2. The wellbeing of children and young people is at the heart of Getting it Right for Every Child (GIRFEC), Scotland's national approach to supporting children, young people and their parents to work in partnership with the services that can help them. Based on children's rights, GIRFEC translates the UNCRC into clear values, principles and practices that require every practitioner to apply a UNCRC approach in day-to-day practice by putting children and young people at the centre. Key elements of the GIRFEC approach have been introduced into law under the ground breaking Children and Young People (Scotland) 2014 Act and will come into force in August 2016.
3. The following sections acknowledge and reflect the structural, legal and policy differences between the UK and devolved Scottish context with reference to promoting and meeting the rights of children and young people.

Part I: Response to the relevant issue raised

Please update the Committee on the process of developing a bill of rights for the United Kingdom, including on how the process has involved consultation with children, civil society organisations and national human rights institutions in the State party, and how the bill will affect the protection of the rights of the child in accordance with the Convention, as compared to the Human Rights Act of 1998.

4. The Scottish Government is committed to creating a modern, inclusive Scotland which protects, respects and realises internationally recognised human rights principles. Scottish Ministers strongly oppose the UK Government's plans to replace the Human Rights Act 1998 (HRA) with a British Bill of Rights on the basis that it will diminish the UK's reputation overseas, damage relations with devolved governments, and impact negatively on how people, including children, realise their rights. On 11 November 2014 the Scottish Parliament passed a motion in support of the HRA by 100 votes to 10.

In the light of the Convention not being incorporated into the domestic law of the State party, please explain what progress has been made to give full effect to the Convention at the levels of the State and of each of the four nations, including measures taken to guarantee domestic remedies for breaches of the principles and rights provided under the Convention.

5. Part 1 of the Children and Young People (Scotland) Act 2014 (2014 Act) places specific 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 to take steps identified by that consideration. In support of this duty, new Child Rights and Wellbeing Impact Assessments have been introduced to ensure that all parts of the Scottish Government consider the impact of proposed policies and legislation on the rights and wellbeing of children and young people. This will help to inform policy decisions based on the application of the principles of the Convention on an issue by issue basis across Ministers' devolved responsibilities.

6. The 2014 Act also requires Ministers to promote public awareness and understanding of the rights of children. To support this duty, the Scottish Government commissioned Education Scotland to produce a professional learning resource for adults within the education sector. Representatives from over 80% of Local Authorities have engaged with this resource which is now being revised to support adult learning in wider community settings. The Scottish Government has also supported numerous third sector organisations to raise awareness and understanding of children's rights. This support has contributed, for example, to almost 50% of Scottish schools committing to gaining UNICEF's Rights Respecting School Award; Scottish Government support has also contributed to the development of UNICEF's award-winning Child Rights Launchpad learning resource.

7. The 2014 Act requires Scottish Ministers to report to Parliament every 3 years on progress made in meeting these duties and their plans for the following 3 years. In addition, the legislation sets out clear responsibilities to a wide range of public authorities to report on a three yearly basis on what steps they have taken in that period to secure better or further effect of the requirements of the Convention.

8. The Scottish Government continues to support the progression of Curriculum for Excellence, which aims to ensure that all children in Scotland realise their potential as successful learners, confident individuals, effective contributors and responsible citizens. Children's rights are an inherent part of the ethos, pedagogy and content of the curriculum.

9. A number of existing mechanisms allow children and young people to complain about breaches of their rights including published complaints procedures and, ultimately, through the courts. The Commissioner for Children and Young People in Scotland currently has powers to undertake investigations in respect of whether service providers have regard to the rights, interests and views of groups of children and young people in taking decisions or actions that affect them. When commenced, provisions in the 2014 Act will also empower the Commissioner to conduct such investigations on behalf of individual children.

10. Scotland's National Action Plan for Human Rights (SNAP) was launched in December 2013 as a roadmap for the progressive realisation of international human rights standards. Its overarching aims are to create a better human rights culture in Scotland; to help people live better lives through enhancing respect, protection and fulfilment of human rights in the areas of health and social care, standard of living and justice and safety; and for Scotland to contribute to a better world by upholding its international obligations and engaging constructively with the international human rights system. As well as calling for improvements in coordination and engagement in implementing international obligations, SNAP urges consideration of the potential benefits of further incorporation of human rights treaties into the law of Scotland. On 9 December 2015 an Innovation Forum brought together national and local politicians, international speakers, civil society leaders and academics to explore how to give better effect to international obligations in Scotland and to discuss further incorporation. In her address to the Forum,¹ Scotland's First Minister said:

"I also welcome the fact that today's event will explore implementing and incorporating into Scots law some of the key international human rights treaties – for example...the Convention on the Rights of the Child..."

¹ <http://news.scotland.gov.uk/Speeches-Briefings/SNAP-Human-Rights-Innovation-Forum-2040.aspx>

“The Scottish Government wants to explore in detail how we embed those principles of human rights into everything that we do.”

11. The conclusions of the Innovation Forum will be taken forward by the five established SNAP Action Groups throughout Years three to five of the plan.

Please inform the Committee about the steps taken by the State party to ensure that the Children’s Commissioners in England, Wales, Scotland and Northern Ireland are independent, in compliance with the principles relating to the status of national institutions for the promoting and protection of human rights (Paris Principles) and mandated, inter alia, to receive and investigate complaints from or on behalf of children concerning violations of their rights.

12. The Commissioner for Children and Young People (Scotland) Act 2003 establishes the role of the Commissioner for Children and Young People in Scotland. The Act makes clear that, although appointed by the Queen, the Commissioner is not to be regarded as a servant or agent of the Crown and that the Commissioner is not subject to direction or control of any Member of the Scottish Parliament, member of the Scottish Government or the Scottish Parliamentary Corporate Body (SPCB). The SPCB sets the terms of the Commissioner’s appointment. The Commissioner’s powers of investigation are as described under paragraph 9 above.

Please explain the measures taken to protect children, in particular Muslim children, from stigmatizing effects of the counter-terrorism measures.

13. In Scotland, the “Prevent” strand of the Counter Terrorism strategy looks across all forms of terrorist and violent extremist threat and does not focus solely on Muslim communities. By delivering the strategy in this manner we ensure that no one section of the community is singled out or stigmatised. “Prevent” activity addresses the need to protect children from being drawn into terrorism. The Scottish Government and Education Scotland have worked with local authorities to implement a proportionate and appropriate approach to safeguard children and young people from radicalisation. This work is closely aligned to well-established safeguarding protocols to ensure the safety and wellbeing of our young people. Through our new Children, Young People and Families Early Intervention and Adult Learning and Empowering Communities Fund we will, from April 2016, support as a key strand of the Fund a number of organisations to deliver early intervention and prevention activity to improve outcomes for minority ethnic children and young people and families. Through the Fund we will also continue to support the delivery across Scotland of the Roots of Empathy programme to children age 5-8. Scotland is the first country worldwide to deliver this programme in every council area. A recently published evaluation has shown that the programme significantly increases empathy and reduces aggression, which may lead to reduced bullying associated with counter-terrorism measures.

14. The Scottish Government is committed to promoting equality across Scotland and working with others to do so. To help achieve that aim, we are providing over £20 million of funding from the Equality budget during 2015-16 to help tackle inequality and discrimination. This includes £3.1 million to organisations working towards race and religious equality. Of this, £2.7 million from the Equality budget has been allocated to address issues of race equality and over £400,000 to faith organisations, through the Equality Fund, strategic interventions and support for intermediary organisations.

15. Despite cuts to the Scottish budget, the Scottish Government has managed to maintain its budget for equality projects during the 2012-16 period. This demonstrates

our continuing commitment to the promotion of equality and to tackling issues of discrimination.

16. The Scottish Government believes that every child deserves to live in a sectarian-free Scotland. We have therefore been supporting a community-based approach to tackling sectarianism, an approach that was welcomed by the independent Advisory Group on Tackling Sectarianism in Scotland. This commitment is backed by investment of £3 million in 2015-16 and follows a £9 million investment over the three financial years 2012-13 to 2014-15, across Scotland to prevent sectarian behaviour through school and adult education, projects based on arts, football and inter-community dialogue. These projects provide tailored solutions to specifically identified problems by taking action which prevents sectarian behaviour. Religious and Moral Education remains one of the eight core areas within Curriculum for Excellence. The flexibility of the curriculum gives pupils the opportunity to explore, discuss, debate and understand wider beliefs and values across local and global communities.

Please provide further information on the measures taken to ensure children's access to justice and the representation of children in civil and criminal proceedings in the context of cuts in the provision of legal aid

17. In Scotland, there has been no reduction in the range of matters for which legal aid is available. The system is not cost limited and has generous financial eligibility thresholds. Children can access publicly funded legal advice and representation on the same broad range of issues, both civil and criminal, that anyone can, so long as they have the capacity to instruct a solicitor. The Scottish Government also supports a number of organisations, such as Clan Childlaw and the Scottish Child Law Centre, that provide legal advice and support to children and their families and officials are engaging with stakeholders to explore any barriers children may face in accessing legal assistance in practice.

18. The Victims and Witnesses (Scotland) Act 2014 has enhanced support for vulnerable child victims and witnesses by increasing the age of automatic eligibility for special measures, such as giving evidence via video link, from under 16 to under 18. This extension also applies to press reporting restrictions for any child concerned in criminal proceedings, whether as a victim, witness or accused. In addition, a child victim (or alleged child victim) of specific offences can now request the gender of their investigating officer who is to carry out the interview. The types of offences are sexual offences; human trafficking; an offence the commission of which involves domestic abuse and stalking.

Please update the Committee on initiatives in England, Wales, Scotland and Northern Ireland to lower the voting age to 16.

19. It has been a long-standing commitment of the Scottish Government to extend the franchise to 16 and 17 year olds wherever it is within the power of the Scottish Parliament to do so. Scottish Ministers believe that the voting age should be reduced to 16 for all elections and that the case for extending the franchise is clear. Young people can get married, serve in the armed forces and pay tax at 16, so they should have a voice on the matters that affect them.

20. The independence referendum in 2014 was the first occasion at which all eligible 16 and 17 year olds were able to vote in a national electoral event. The decision to extend the franchise to 16 and 17 year olds in the referendum is widely seen as a success, with high levels of participation by 16 and 17-year-olds. Around 109,000 16 and

17 year olds were registered to vote in the referendum, representing around 90% of the estimated number of 16 and 17 year olds in Scotland. Young people have demonstrated by voting in the referendum, and their engagement in political events and debates across the country, levels of unprecedented interest in democratic participation and involvement in decisions. Since the referendum, all parties represented in the Scottish Parliament have supported lowering the voting age to 16 in Scottish Parliament and local government elections.

21. The Scottish Elections (Reduction of Voting Age) Act 2015, which received Royal Assent on 24 July 2015, lowers the voting age to 16 for elections to the Scottish Parliament and local government elections in Scotland; in time for the next Scottish Parliament elections in May 2016 and Scottish local government elections in May 2017.

22. The Scottish Government has taken a range of steps to implement Article 12 of the Convention, ensuring that children have their views heard on individual decisions that affect them. It also supports the work of the Scottish Youth Parliament, which is the democratically elected voice of Scotland's children and young people.

23. The Scottish Government has also committed to hold a Year of Young People (YOYP) in 2018 as part of its Themed Years programme. A programme of cultural and educational events and activities, co-designed with young people themselves will be held across the country that will celebrate Scotland as a great place for young people to grow up in and mark their important contribution to Scottish society. The journey to 2018 and beyond will be crucial in achieving Ministers' wider ambition to allow all children and young people to enjoy their rights and be fully involved in matters that affect them at personal, local and national level.

Please provide information on how the State party intends to fulfil its obligation to remove all legal defences for corporal punishment of children in the home and all other settings through the State party, including the Crown Dependencies and overseas territories.

24. The Scottish Government does not support 'smacking' as a way of disciplining children. We encourage all parents to avoid physical punishment of children. We support positive parenting through, for example, funding for family support services. In Scotland, it is illegal to punish children by shaking, hitting on the head and using an implement. In other cases, the current law requires the court to have regard to various factors when determining whether a punishment by a parent can be justified. These factors are: what was done; the reason and the circumstances; the duration and frequency; any effect, whether physical or mental, on the child; the child's age; and the child's personal characteristics, including the child's sex and state of health.

25. The Scottish Government is aware of recent cases that have reached the courts where parents have been convicted of an offence after hitting their children. One recent case is outlined at news.stv.tv/tayside/220280-creiff-father-faces-court-for-slapping-son-who-threw-a-tantrum/ Another is at www.thecourier.co.uk/news/local/perth-kinross/perthshire-stepdad-in-court-for-smacking-youngster-1.67792

26. The Scottish Government is also aware that action is taken in Scotland in relation to child cruelty generally. The figures below show the number of people proceeded against and found guilty under section 12 (cruelty to persons under 16) of the Children and Young Persons (Scotland) Act 1937

People proceeded against and convicted under section 12 of the Children and Young Persons (Scotland) Act 1937, 2004-05 to 2013-14

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Total proceeded against	216	161	197	235	200	163	184	182	154	170
a:Not Guilty	45	26	30	48	38	39	39	29	40	46
b:Guilty	171	135	167	187	162	124	145	153	114	124

Source: Criminal Proceedings database

Please provide further information on how the use of restraint is prohibited or restricted in education, custody, mental health, welfare and immigration institutions, both residential and non-residential, throughout the State party. Please also explain how compliance with such prohibition and restriction is monitored.

27. Individual guidance and training is in place for staff in education, custody, mental health and care settings with reference to controlling and limiting the use of restraint. Any use of restraint must be carried out with regard to the welfare of the child. Restraint is acknowledged as an extreme form of intervention and should never be seen as the norm. The use of restraint should always be a last resort.

28. The Scottish Government published '*Holding Safely, A Guide for Residential Child Care Practitioners and Managers about Physically Restraining Children and Young People*' (2005) which was updated in 2013 with 'Guidance on minimising the use of physical restraint in Scotland's residential childcare establishments'. Alongside this, a pamphlet was specifically developed for looked after children themselves. This guidance, however, goes wider than residential child care, covering all schools and establishments. Further to this, the Scottish Government are in the process of incorporating guidance on restraint in the context of positive relationships and behaviour for all schools (mainstream and special school settings) through an updated 'Included, Engaged and Involved part 2: a positive approach to managing school exclusions'.

29. Inspection arrangements across individual establishments and bodies, for example through the Care Inspectorate and Mental Welfare Commission, require establishments to demonstrate that they are minimising the use of physical restraint and are following the relevant guidance. In certain settings, for example community-based mental health services, the use of restraint is explicitly prohibited.

30. The Scottish Government has responsibility for the wellbeing of all children in Scotland, and as such, whilst immigration is fully reserved, when it comes to children who arrive in Scotland we have exercised the principles of Getting it Right for Every Child. At present under a continued understanding with the Home Office, children are not held at Dungavel.

Please provide information on the causes of the recent increase in children placed in care. Please explain to the Committee why, reportedly, many children in care face frequent transfers, and provide information on measures that have been taken or envisaged in order to ensure stability and continuity of child placement. Please also provide information on measures taken to ensure that children in care have regular contact with their families when it is in their best interests.

31. The number of looked after children in Scotland is starting to fall (4% since 2012) after increasing for more than a decade. Children are becoming looked after and leaving care at younger ages. The number of children looked after by friends and family has quadrupled between 2001-2014 to over 4,000 which we consider is likely to be due to an increase in transfer from informal to formal kinship care. However, we expect the number of looked after children in kinship care to decrease with the introduction of the Kinship Care Order through the Children and Young People (Scotland) Act 2014. The intention behind this new provision is to provide appropriate support to informal kinship care placements underpinned by a Kinship Care Order, where the placement is stable and compulsory supervision is not required. In addition, the number of adoptions has nearly tripled since 2004.

32. Local authorities have a duty to take steps to promote contact between a child and any person with parental responsibilities, in so far as this is practicable and appropriate having regard to their duty to safeguard and promote the child's welfare. The Looked After Children (Scotland) Regulations 2009 set out that there must be an assessment of contact arrangements and that the arrangements must be included in the Child's Plan and reviewed by the local authority.

33. On 26 November 2015, the Scottish Government published a Looked After Children Strategy, which builds on good work that is already underway across Scotland, including the far reaching measures introduced by the 2014 Act. It aims to accelerate the pace of change and calls on all those involved to be more ambitious and to work together to deliver better outcomes for our looked after children and young people. In order to ensure more looked after children have permanent placements we have established the Permanence and Care Excellence (PACE) programme in four Scottish local authorities; working with partners in social work, health, education, children's hearings, Scottish Children's Reporter Administration and the courts to address delay in permanence processes, and improve decision making for all looked after children. We expanded PACE to a further three areas at the end of 2015.

34. We have also established the Realigning Children's Services programme, which aims to support commissioning based on evidence including whole child population needs and strengths. In addition, we have legislated through the Children and Young People (Scotland) Act 2014 to provide relevant services to families where a child is at risk of becoming looked after with a view to keeping as many children as possible in family settings and avoiding formal care, when this is in the child's best interests. The Act also introduces a new entitlement of 'Continuing Care' for 16 year olds to stay in their care placement until reaching the age of 21. This entitlement has been introduced as part of a continuum of care that better prepares looked after young people for a successful transition out of the 'looked after' care system. With a renewed focus on providing services that enable prevention and early intervention, local partners are encouraged to avoid the heavy human and financial costs of children entering the care system.

Please provide further information on the measures taken or planned to meet the increase in demand for mental health-care services for children. Please include information on the human, technical and financial resources allocated to such services for prevention, early detection, treatment, recovery and reintegration, including to address child sexual abuse. Please explain how the best interests of the child are protected and how due consideration is given to the views of the child in cases of mental health treatment of children below the age of 16.

35. Scotland was the first nation in the world to introduce a waiting time target for Child & Adolescent Mental Health Services (CAMHS). The target is intended to support access and to drive improvement across mental health services and aims to deliver faster access to mental health services by delivering 18 weeks referral to treatment from December 2014.

36. We have invested £16.3 million over the last six years to increase the number of psychologists working in specialist CAMHS, with a further £3.5 million committed in 2015/16. In January 2016 the First Minister announced over £54 million to improve access to psychological therapies for all ages including for CAMHS. This funding is part of £150 million allocated for improving services over the next five years.

37. A person discharging any function under the Mental Health (Care and Treatment) (Scotland) Act 2003, with reference to a child, must do so in the manner that appears to that person to best secure the welfare of the child, take into account the wishes and feelings of the child and any views of the carers and the importance of providing appropriate services to that child.

38. Statutory guidance requires the medical practitioner attending the child to consider whether the child is capable of understanding the nature and consequences of the procedure or treatment. If the child is considered capable, the practitioner must seek the consent of the child rather than of the parent. There are additional safeguards for informal (e.g. non-detained) patients under the age of 16 relating to certain treatments. The Mental Welfare Commission is the independent statutory body with responsibility for monitoring the 2003 Act and the Commission produces a yearly report monitoring the treatment of children and young people in mental health care settings.

39. The actions of the Scottish Government to address the underlying social-determinants of health will also have an impact on mental health. These include actions to support meaningful, secure employment, good quality housing and neighbourhoods and high quality education and childcare.

40. With reference to sexual abuse, the National Guidance for Child Protection in Scotland was refreshed in 2014. The guidance recognises that sexual abuse is a risk factor that may increase the likelihood of a child or young person experiencing mental health problems and confirms that local training and child protection policies should therefore highlight awareness of the factors affecting children and young people who experience mental health problems. In 2014, we also published the National Action Plan to Tackle Child Sexual Exploitation (CSE), setting out a range of actions to raise awareness of sexual exploitation, protect and support children and young people at risk and those affected, and bring those who abuse children to justice. An Update of the Action Plan was published in March 2016.

41. Barnardo's Scotland has been awarded three year funding from April 2016 through the Children, Young People and Families Early Intervention and Adult Learning and Empowering Communities Fund to expand frontline child sexual exploitation services and strengthen capacity to support national developments, with £300k being made available in 2016-17. The Moira Anderson Foundation has also been awarded three year funding through the Fund to increase the therapeutic support it provides to children and young people who have experienced child sexual abuse, with £37k being made available in 2016-17.

Please clarify whether sex and relationship education is provided in all education settings, including special schools for children with disabilities and special

educational needs, and through education provided in the youth detention centres, such as young offender institutions and secure training centres. Please also clarify whether sex and relationship education includes information on how to access confidential sexual and reproductive health-care services, contraceptives, and support in cases of sexual abuse or exploitation.

42. Relationships, sexual health and parenthood (RSHP) education is provided in all local authority managed schools including special schools and in Scotland's independently run secure units. It is delivered in a way that is appropriate to the needs of the children or young people in the classroom. Polmont Young Offenders Institution has worked with Education Scotland in recent years to improve their delivery of RSHP education. Other groups such as youth workers are encouraged to deliver RSHP education in other settings.

43. Denominational schools play an important part in Scottish education. The Scottish Government values this provision and is committed to maintaining it. It is recognised that religious authorities with a role in denominational education provide guidance on RSHP education for their denominational schools and that right will continue as at present. The national RSHP guidance is complementary to the guidance provided by the religious authority while at the same time serving as a useful basis for everyone.

44. Recently published guidance (<http://www.gov.scot/Publications/2014/12/8526>) states that *"All children and young people should be encouraged to understand the importance of consent, dignity and respect for themselves and the views of others...Where appropriate, young people should be made aware of how to access confidential local young people's sexual health services and additional information about their sexual and reproductive health and rights."*

Please update the Committee on possible new legislation that is expected to replace the Child Poverty Act of 2010 and on its detailed content, as well as on how consultation with children and other stakeholders has been conducted in developing the legislation. Please indicate whether a child rights impact assessment has been conducted of the recent welfare reform, including the cap on household benefits and other reductions in benefits. Please also indicate the measures being taken to mitigate negative impact of this reform on the enjoyment of the rights of children, particularly those in vulnerable situations.

45. The Scottish Government does not support the changes being made by the UK Government to the Child Poverty Act 2010 via their Welfare Reform and Work Bill, in particular:

- The proposals for revised targets, which focus on worklessness and educational attainment, and do not take income into account.
- The removal of the Child Poverty aspects of the Social Mobility and Child Poverty Commission's remit.

46. The Scottish Government has asked the UK Government to amend the Bill to repeal all parts of the 2010 Act imposing any duty on Scottish Ministers, including the duty to appoint a Commissioner to the new Social Mobility Commission. In consultation with our Ministerial Advisory Group on Child Poverty, our Independent Poverty Advisor and other stakeholders, we will continue to develop a Scottish approach to tackling Child Poverty, including how we measure and report our efforts - reflecting the importance we continue to place on this challenge and our desire to effect real change. We are committed to building a fairer Scotland and reducing inequalities but we are aware that

the UK Government's welfare cuts and austerity agenda will have a significant and detrimental impact in Scotland and do nothing to tackle the scourge of child poverty. We are spending £104 million in 2015-16 to mitigate the worst aspects of welfare reform, via the Scottish Welfare Fund (£38m), mitigating the Bedroom Tax (£35m), council tax reduction scheme (£23m) and other mitigation activity, for example advice services (£8m).

47. The Scottish Government also has a number of policies in place to help children living in poverty. For example, on 5 January 2015, the First Minister launched free school meals for all primary 1 to 3 children, and we have also extended the Education Maintenance Allowance programme so that it supports more young people to overcome financial barriers to access and remain in learning.

Please provide further information on the measures taken to prevent child homelessness, including for children above the age of 16. Please clarify the measures taken to prevent children from being placed in temporary accommodation by public authorities for prolonged periods of time before having access to permanent accommodation.

48. All homeless households assessed as being unintentionally homeless by local authorities in Scotland are entitled to settled accommodation. The Scottish Government is committed to ensuring the wait in temporary accommodation is as short as possible while appropriate accommodation is found and has issued statutory guidance to local authorities covering a range of issues including measures to minimise the harm for children of being in temporary accommodation by reducing moves and maintaining schooling and support networks. We are increasing housing supply and, through person centred and preventative approaches such as Housing Options, placing a clear emphasis on early intervention to resolve problems before they escalate into a housing crisis. A new mandatory data collection requirement for local authorities from April 2016 will help to inform the delivery of services to improve outcomes and reduce the time households with children spend in temporary accommodation.

49. In 2013, the Scottish Government published the guidance Staying Put Scotland and Housing Options Protocol for Care Leavers to offer practical examples of how corporate parents could ensure that care leavers are afforded access to a range of housing options and person-centred supports to help young people leaving care make a successful transition to adult living. The Children and Young People (Scotland) Act 2014 introduced a package of enhancements to support care leavers and from April 2015 has put Corporate Parenting on a statutory basis and placed responsibilities on a wider range of public bodies and individuals to safeguard and promote the wellbeing of Scotland's looked after children and young people. The Act also introduces a new entitlement for 16 year olds in residential, foster or kinship care to stay in their care setting until reaching the age of 21 and extends eligibility criteria which now commits local authorities to provide aftercare support for care leavers up to the age of 26 years (an increase from the previous age limit of 21 years old).

Please explain how the best interests of the child are taken into account as a primary consideration in decisions involving migrant, asylum-seeking or refugee children, including with respect to age assessment, refugee status and residency permits. Please clarify how the asylum instruction on assessing age is consistent with the State party's overall policy to treat an age-disputed individual as a child until the assessment is completed (see CRC/C/GBR/5, para. 226).

50. The Scottish Government sponsors a unique service for unaccompanied asylum seeking children, the Scottish Guardianship Service. This service provides a guardian for unaccompanied asylum seeking children to act as their contact and mentor whilst they navigate the asylum procedure and their integration into life in Scotland. When commenced, section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015 will require the Scottish Ministers to make arrangements to enable independent child trafficking guardians to be appointed to assist, support and represent unaccompanied child victims of trafficking or those who may be vulnerable to being trafficked. In line with GIRFEC principles, guidance will be drafted to direct these independent child trafficking guardians to act at all times in the best interests of the child.

51. Section 12 of the 2015 Act will, when commenced, also require local authorities and health boards to apply a presumption of age in cases where a victim of human trafficking appears to be a child, and the relevant authority has reason to believe that the individual is a child, but their age is uncertain or undocumented. The requirement for the relevant authority is that in such circumstances, the person is a child for the purpose of providing support and services under certain sections of the Children (Scotland) Act 1995 and the Children and Young People (Scotland) Act 2014, as well as for the purpose of the guardians provision referred to above, until such time as the person's age has been determined (by age assessment or otherwise).

52. As part of the Scottish response to the Syrian Resettlement Programme, the Scottish Government has ensured that the wellbeing of children as part of their family environment has been accounted for when planning activity. Scotland is proud to have received over 400 Syrian refugees under the Programme since October 2015. We are working with key partners, including the Home Office, Convention of Scottish Local Authorities (COSLA) and local authorities, and through the Refugee Taskforce to ensure the smooth arrival and integration of Syrian refugees into our communities. So far, reception and initial integration arrangements, which are delivered by local authorities, have gone very smoothly. This includes arrangements for the children, who have been keen to start school quickly and make up for the time they have lost in education.

53. Scotland has a long history of welcoming asylum seekers and refugees. We maintain that they should be integrated from day one, and not just when leave to remain has been granted. Scotland's approach towards integration provides a positive experience for our asylum seekers and refugees. This in turn means that they will be able to play a full part in society and want to continue their lives in Scotland.

54. New Scots: Integrating Refugees in Scotland's Communities is a three year strategy for refugee integration in Scotland, launched in December 2013. The aim of the strategy is to support and enable people to rebuild their lives in Scotland and make a full contribution to society. The strategy provides a clear framework for all those working towards refugee integration in Scotland. New Scots was developed in partnership with COSLA and the Scottish Refugee Council. The process of development brought together a wide range of agencies working to support the integration of refugees into Scotland's communities, including representatives of refugee community groups. A multi-agency core group with an independent Chair oversaw the process and continues to work, along with themed sub-groups, to implement the strategy's actions.

As immigration is a fully reserved matter, the Scottish Government does not have responsibilities for decision making in respect of the status of migrant / refugee children and young people.

Please provide information on progress made in raising the minimum age of criminal responsibility, developing a broad range of alternative measures to detention for children in conflict with the law and ensuring that such children are never tried as adults in ordinary courts. Please also inform the Committee about progress made in establishing a juvenile justice system in Northern Ireland, the overseas territories and Crown dependencies. Please update the Committee on the design of Secure Colleges (see CRC/C/GBR/5, para. 263), highlighting how they will be made compatible with the Convention.

55. The Scottish Government is open to future change to the minimum age of criminal responsibility. However, it is important that all aspects of any change in the law are consulted on and properly scrutinised. An Advisory Group has been established to address the underlying issues with a view to bringing forward recommendations for consultation in early 2016. The Scottish Government continues to promote alternatives to prosecution through the delivery of a Whole System Approach to offending by young people. This was reflected in a new Youth Justice strategy, published in June 2015. In addition, agreements are in place to allow for the joint reporting of offence cases to the Children's Reporter. The majority of children who have committed an offence are therefore not dealt with in court, instead they are referred to Scotland's unique Children's Hearings System, which takes a needs-based approach to children and young people.

56. Alongside enforcement of legislation, our approach is based on prevention and early intervention. Early years experiences, positive parenting and the experiences of having good healthy respectful relationships all play a key role in reducing violence.

57. The Scottish Government is working with various partners who deliver a number of programmes and initiatives to support people away from offending violent behaviour to build their capacity and potential to make positive life choices for themselves and their families. Our unique CashBack for Communities programme reinvests monies obtained through Proceeds of Crime legislation into positive diversionary activities for young people. The Scottish Government has put significant investment into the national Violence Reduction Unit (VRU). The VRU aims to reduce violent crime and behaviour by working with partner agencies to achieve long-term societal and attitudinal change, and, by focusing on enforcement, to contain and manage individuals who carry weapons or who are involved in violent behaviour. The unit also aims to explore best practices and develop sustainable, innovative solutions to the deep rooted problem of violence.

58. Scotland will not be introducing Secure Colleges. Our Vision for Young People in Custody is designed to enable young people in custody to prepare for a positive future and develop as successful learners, confident individuals, responsible citizens and effective contributors. Implementation of this Vision has been supported through, for example, major investment in the facilities at HMYOI Polmont (Scotland's national Young Offenders' Institution) and staff training.

Please provide information on progress made in abolishing the possibility of a life sentence, referred to as detention during Her Majesty's pleasure or detention for life or by similar terms, for offences committed while the offender was under the age of 18.

59. Under Scots law, there are two forms of life sentence. Mandatory life sentences apply when the court is required to impose a life sentence, for example for a conviction for murder, and non-mandatory life sentences where the court has to decide whether the circumstances merit the imposition of such a sentence. For those who are under 21 at

the time of sentence, a court cannot impose imprisonment but can impose detention in its place.

60. If a child, under 18, meets the criteria for a mandatory life sentence, they will be sentenced to be detained without limit of time, as opposed to imprisonment for life. For those under 18, detention will be in such a place and under such conditions as the Scottish Ministers direct. This could include a young offender's institution or secure educational establishment, separate from adult offenders.

61. There are no age restrictions in Scots law which prevent the court from imposing either a life sentence or detention without limit of time. However, the court will take into account a wide range of factors when determining the appropriate 'punishment part' (the period that must be served in custody) in each case, including the circumstances of the offence and the offender and this could include age of the offender. In general, when children are sentenced to detention, the court must state reasons for its opinion that no other method of dealing with the child is appropriate.

With respect to the concluding observations on the report submitted by the State party under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/GBR/CO/1), please update the Committee on the measures taken or planned to implement its recommendations. Please also update the Committee on any follow-up to the recent inquiries on child sexual abuse and exploitation, including child sexual exploitation by gang groups in Rotherham (Jay inquiry) and sexual abuse by the clergy (Goddard inquiry).

62. The Human Trafficking and Exploitation (Scotland) Act 2015 clarifies and strengthens criminal law by introducing a new single human trafficking offence for the purpose of all forms of exploitation of adults and children and increases the maximum penalty for offenders to life imprisonment. The Act places in statute a duty to ensure that an independent child trafficking guardian is appointed for any child who reasonably appears to have been trafficked or to be vulnerable to being trafficked, where no one in the UK holds parental rights and responsibilities in relation to the child.

63. In terms of images of child abuse, the Scottish Government is working with Police Scotland and other stakeholders to ensure that all possible steps are being taken to eliminate indecent images of children. The Scottish Government supports the UK initiative of WeProtect and the Scottish Stakeholder Group on Child Internet Safety is revising currently its terms of reference and membership in order to work more closely with Police Scotland.

64. In November 2014, we published the National Action Plan to Tackle Child Sexual Exploitation (CSE), setting out a range of actions to raise awareness of sexual exploitation, protect and support children and young people at risk and those affected, and bring those who abuse children to justice. Work to support practice improvement and workforce development in relation to CSE is being taken forward by the National CSE Sub Group.

65. A Child Abuse Inquiry in Scotland began on 1 October 2015. The Terms of Reference require the Inquiry to investigate the nature and extent of abuse of children in care. The Inquiry must also consider: the effects of such abuse on children and their families; the extent of failures of bodies with legal responsibility to protect children in care; whether such failures have been addressed by changes to practice, policy or legislation; and whether further changes are needed. The Apologies (Scotland) Act 2016,

which recently received Royal Assent, is intended to remove fear of litigation as a result of apologising by making apologies inadmissible as evidence in civil proceedings. The Act aims to remove one of the barriers for survivors of historical child abuse to receive an apology and to encourage a change in social and cultural attitudes towards apologising.

With respect to the concluding observations on the report submitted by the State party under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/GBR/CO/1), please comment on information that the Army Board recently stated its intentions to expand the recruitment of children. Please also comment on information that the minimum period of service for children is again longer than that for adults.

66. Whilst defence policy is reserved to the UK Government, the wellbeing of children is not. As such we would want to be assured that any recruitment of children to the UK military takes full cognisance of all aspects of their wellbeing. We have therefore requested from the UK Government further detail on the Army Board's proposal to increase the number of personnel recruited prior to their 18th birthday, including with regards to recruitment from Scotland, and reassurance from the UK Government that it has no intention to change current policy which seeks to prevent the involvement in hostilities of UK Service personnel under the age of 18.

Part II: Update on measures to take forward Children's Rights in Scotland since UK State Party Report 2014

Relevant legislation in Scotland aims to promote and apply the principles of the UNCRC within specific areas of devolved responsibility.

This section provides an overview of some of the key legislation, policies, programmes and projects that have been taken forward in Scotland since the Scottish Government's submission to the 5th UK Government Report to the UN Committee on the Rights of the Child.

- **Childcare:** free early learning and childcare expanded to 600 hours per year from 2014 for 3 and 4 year olds and disadvantaged 2 year olds. We are committed to expanding this to 1140 hours per year by the end of the next Parliament, and ensuring that the free hours are offered on a more flexible basis to meet the needs of children and parents. Local authorities have been allocated £170m over 3 years from 2014/15 for the capital costs of the expansion to 600 hours. The annual revenue cost of meeting the commitment to provide 1140 hours of funded childcare by the end of the next Parliament is estimated at around £800 million.
- Since January 2015, all children in P1-3 (ages between 4/5 – 6/7) are entitled to a **free school meal**. This measure helps to ensure that children and young people get access to a balanced and nutritious meal at school while saving parents around £380 a year per child. The Scottish Government is providing over £124 million of revenue funding over 3 years to deliver the commitment, supported with additional capital funding for local government of £24.8 million. The free school lunch criteria has been expanded in early learning and childcare to those children who will benefit most.
- **The Scottish Attainment Challenge:** £180m invested through the Attainment Scotland Fund to support authorities and schools in areas of significant deprivation to raise attainment and reduce the impact of poverty on educational outcomes.
- **'Opportunities for All'** underpins the Scottish Government's focus on youth employment by ensuring that the disadvantage experienced by different groups of young people is addressed as they move towards work. The commitment to 'Opportunities for All' has helped deliver the highest ever proportion of pupils who left school during 2013-14 into making a sustained positive destination - 91.7 % (up from 90.4% in the previous year).
- The **Education Maintenance Allowance (EMA)** is a key aspect of 'Opportunities for All'. The EMA programme is being expanded as of January 2016 to help more school pupils and college students continue their studies and fulfil their potential.
- More than 6,000 young people have benefited from **Community Jobs Scotland (CJS)**. CJS offers unemployed vulnerable people, aged 16 to 29, paid job-training posts. CJS delivers key equality benefits, as it offers job-training opportunities lasting up to a year for care leavers and other vulnerable young people aged up to 29, including disabled people and those with long term health conditions.
- **Child Rights and Wellbeing Impact Assessments (CRWIA):** introduced in June 2015, CRWIAs will ensure that all parts of the Scottish Government consider the impact of proposed policies and legislation on the rights and wellbeing of children and young people.
- **Looked After Children Strategy:** 'Getting it right for looked after children and young

people', published in 2015, set out Scotland's strategy on early engagement, early permanence and improving the quality of care.

- **Child Poverty Strategy for Scotland 2014-17:** sets out an innovative measurement framework addressing the range of drivers of poverty and the impact of poverty on children and families. The Scottish Government is investing £104 million in 2015-16 through the Scottish Welfare Fund and other measures.
- **Permanence and Care Excellence programme (PACE):** established in 2014 to improve permanence planning and decision-making for looked after children.
- **Realigning Children's Services Programme** – established March 2015 to improve joint strategic commissioning practice. Working within three local authority areas, the programme aims to increase the use of evidence when commissioning collaboratively with third sector service providers and service users. This should result in earlier intervention or prevention, reducing the number of children for whom statutory measures are necessary. Funding has been identified until March 2018.
- **Scottish National Mentoring Scheme for Looked After Children:** When launched in spring 2016, this programme will offer long-term relationship-based, health and wellbeing-focused advocacy, befriending and mentoring support by community volunteers, initially targeting those looked after at home, with an initial investment of £500,000 per annum.
- **Children's Hearings (Scotland) Act 2011 (Advocacy):** £270,000 has been provided to date for 3 advocacy service projects, across 4 areas of Scotland, to help inform the provision of a sustainable advocacy service for the Children's Hearings system.
- **Preventing Offending: Getting it Right for Children and Young People** (June 2015) builds on progress made since the previous Youth Justice Strategy in 2011 to prevent, divert, manage and change offending behaviour by children and young people.
- **Scottish Prison Service Vision for Young People in Custody** (December 2014) seeks to support a young person to use time spent in custody to prepare for a positive future. There has been investment of around £3 million to provide high quality learning facilities.
- **CashBack for Communities** uses sums collected under the Proceeds of Crime Act 2002 to fund community activities and facilities largely, though not exclusively, for young people. All CashBack projects are required under the terms of their grant to focus activity in deprived areas of need using communities identified through the Scottish Index of Multiple Deprivation.
- **Holding Safely:** updated 2013, provides guidance on minimising the use of physical restraint in Scotland's residential child care establishments.
- **National Action Plan to Tackle Child Sexual Exploitation (2014)** sets out a range of actions to raise awareness of sexual exploitation, protect and support children and young people at risk and those affected, and bring those who abuse children to justice.
- **National Guidance for Child Protection in Scotland (2014)** reflects the practice and procedures shifts since 2010, in particular those brought by the Children and Young People (Scotland) Act 2014, and contains updated references to particular contexts such as trafficking and online safety. We also published 'Additional notes for

practitioners: Protecting Disabled Children from Abuse and Neglect' in 2014 to support identification of abuse and harm and help inform practice considerations to support the protection of disabled children.

- **Child Abuse Inquiry in Scotland:** (October 2015) is expected to report within 4 years. The Inquiry aims to raise public awareness of the abuse of children in care and provide an opportunity for public acknowledgement of the suffering of those children and a forum for validation of their experience and testimony.
- In 2015 the Scottish Government closed a loophole in the Prohibition of **Female Genital Mutilation** (Scotland) Act 2005 to extend the reach of the extra-territorial offences in that Act to habitual (as well as permanent) UK residents, by a legislative consent motion in the Serious Crime Act 2015. Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation was published on 4 February 2016
- **Children, Young People & Families Early Intervention and Adult Learning & Empowering Communities Fund:** launched in June 2015, with awards starting in April 2016, this will support voluntary organisations tackling inequalities and poverty, support parents and carers, improve learning and skills, and help children, families and communities across Scotland.
- **The 2018 Year of the Young People:** A programme of cultural and educational events and activities, co-designed with young people, will celebrate the very best of Scotland and its young people.
- **A refreshed universal Health Visiting Pathway - Pre-birth to Pre-school:** (October 2015) presents a core home visiting programme to be offered to all families by Health Visitors as a minimum standard. The Scottish Government is investing £41.6 million from 2014-18 for additional Health Visitors.
- **Scotland's National Action Plan for Human Rights (SNAP)** was launched 10 December 2013 as a roadmap for progressive realisation of international human rights standards. SNAP is structured around three outcomes: better culture, better lives and better world.
- The Scottish Government has developed opportunities for children and young people to participate in **sport and physical activity** by investing up to £50 million through sportscotland in Active Schools over the years 2015 to 2019.

Legislation

- **The Victims and Witnesses (Scotland) Act 2014:** enhances the rights of victims and witnesses of crime to relevant support and information.
- **Public Bodies (Joint Working)(Scotland) Act 2014:** aims to support improvement of the quality and consistency of health and social care services through the integration of certain local authority services with health services in Scotland.
- **Children and Young People (Scotland) Act 2014:** aims to put children and young people at the heart of planning and delivery of services and to ensure that their rights are respected across the devolved public sector.
- **Human Trafficking and Exploitation (Scotland) Act 2015:** strengthens the law against those who traffic and exploit adults and children and puts on a statutory basis arrangements for the appointment of independent child trafficking guardians.
- **Scottish Elections (Reduction of Voting Age) Act 2015:** reduces the voting age to

16 at elections to the Scottish Parliament and local government elections.

- **Welfare Funds (Scotland) Act 2015:** makes provision for the maintenance of welfare funds and for them to be used to help certain individuals.
- **Post-16 Education (Scotland) Act 2013:** makes provisions about the support for and governance of further and higher education institutions and the sharing of information about young people's involvement in education and training.
- **Criminal Justice (Scotland) Act 2016:** takes forward reforms to the Scottish criminal justice system to enhance efficiency and bring appropriate balance to the justice system. It will provide for implementation of recommendations to end non-statutory (or consensual) stop and search and introduce a new Code of Practice, as recommended by the Independent Advisory Group on Stop and Search led by John Scott QC.
- **Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016:** prohibits smoking in private motor vehicles in the presence of children.
- **Apologies (Scotland) Act 2016:** aims to remove fear of litigation as a result of apologising by making apologies inadmissible as evidence in civil proceedings.
- **Abusive Behaviour and Sexual Harm (Scotland) Bill:** aims to improve how the justice system responds to abusive behaviour, including domestic abuse and sexual harm.
- **Carers (Scotland) Bill:** aims to support on a more consistent basis Scotland's estimated 745,000 adult carers and 44,000 young carers.
- **Education (Scotland) Bill:** aims to promote equity in education and take steps towards narrowing the attainment gap, alongside other measures.
- **Private Housing (Tenancies) (Scotland) Bill:** will replace the current assured tenancies in the private rented sector with a modern, open-ended tenancy where landlords cannot evict a tenant simply because their tenancy agreement has reached its end date.