

Annex

Email - Update meeting with all governments regarding UNCRC/children's rights -
Scottish Government update – 08 April 2020

Attached Document – Scottish Government Children’s Rights Unit – Update

REDACTED

Incorporation of the UNCRC into Scots Law

Work is continuing on the preparation of the Bill to incorporate the UNCRC into Scots Law. The aim is for Parliament to approve the Bill in the current Scottish parliamentary session, i.e. by May 2021, albeit we will need to be able to react in an agile manner to the capacity available in Government, Parliament, wider public services and the third sector.

REDACTED

Letter from Deputy First Minister and Cabinet Secretary for Education and Skills and
Cabinet Secretary for Communities and Local Government to the Secretary of State
for Scotland – 07 April 2021

Dear Alister

Thank you for your letter of 24 March.

On 1 September 2020, as is the position for all Scottish Government Bills, the Deputy First Minister gave a statement, cleared with the Lord Advocate, (as is acknowledged in the Scottish Ministerial Code), that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill was, on introduction, within the legislative competence of the Scottish Parliament. The Presiding Officer of the Scottish Parliament also gave such a statement. On 5 May 2020, Andy Wightman MSP (the Member in charge) and the Presiding Officer gave similar statements in relation to the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

As we previously indicated, the Scottish Government remains of the view that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill are within legislative competence. Both Bills were passed unanimously by the Scottish Parliament.

We do not see a case for delaying these important pieces of legislation proceeding to Royal Assent.

The Scottish Government continues to work with partners to progress planning for implementation of both Bills.

The Cabinet Secretary for Environment, Climate Change and Land Reform will provide a separate response in relation to your comments on the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

John Swinney and Aileen Campbell

Letter from Deputy First Minister and Cabinet Secretary for Education and Skills to
the Secretary of State for Education – 04 February 2020

Dear Gavin,

On 20 November 2019, Universal Children's Day and the 30th Anniversary of the General Assembly's adoption of the United Nations Convention on the Rights of the Child (UNCRC), I announced that the Scottish Government will introduce a Bill to incorporate the rights set out in the UNCRC in full and directly in every case possible and the only limitation will be the limit of the powers of the Scottish Parliament. I am proud to say that by the end of the current Scottish Parliamentary session, Scotland will become the first part of the UK to incorporate the UNCRC into domestic law. I hope the example of Scotland will spur your Government, and others, to follow suit.

Incorporation of the UNCRC will ensure that the rights of children are built into our legislation, our policies and the delivery of our public service. The Bill will aim to ensure that there is a proactive culture of everyday accountability for children's rights across public services in Scotland. This will mean that children, young people and their families will experience public bodies consistently acting to uphold the rights of all children in Scotland.

The Bill which the Scottish Government will introduce this year will take a maximalist approach. We will seek to incorporate in full and directly – using the language of the Convention – in every case possible. Scottish Ministers wish to ensure that the rights that are contained in the UNCRC are afforded the highest protection and respect possible but some parts of the Convention relate to reserved matters and cannot be incorporated by the Scottish Parliament within its current powers.

UNICEF is clear that that the rights in the UNCRC are interrelated, interdependent and indivisible. We believe that Scotland's children should be able to access all of the rights set out in the UNCRC equally. In order to give protection to all children's rights as set out in the UNCRC, I wish to notify you that we are seeking a Section 30 Order under the Scotland Act 1998 to enable the Scottish Parliament to incorporate the United Nations Convention on the Rights of the Child in full and include in our legislation areas that are currently reserved. This approval would enable us to reflect in our legislation the interrelated, interdependent and indivisible charter of the UNCRC.

I recognise there is a need for further explanation of the detail for this approach and look forward to considering this issue with you further.

John Swinney

Letter from Secretary of State for Education to the Deputy First Minister and Cabinet
Secretary for Education and Skills – 26 February 2020

Dear John,

Thank you for your letter of 4th February 2020, regarding incorporation of the UN Convention on the Rights of the Child (UNCRC) into Scottish domestic law. I note that you are seeking a Section 30 Order under the Scotland Act 1998, to enable the Scottish Parliament to include in your legislation areas that are currently reserved.

We currently do not plan to incorporate the UNCRC into English domestic law, and are confident that current domestic legislation in England already implements the UNCRC, and safeguards the rights of children.

It is generally the position of the UK government to not incorporate international treaties directly into domestic law, to avoid unnecessary new burdens on public bodies and individuals. Should any change in the law be needed to enable compliance with a particular treaty, we will consider introducing legislation to give effect to that treaty.

Please could you provide further explanation of the reserved areas that you want to seek the section 30 Order in relation to.

Once you have sent further information, it would be helpful for your officials to meet with officials from my department and officials from the Scotland Office to discuss. My officials will be in touch to arrange this with your office in due course.

*Rt Hon Gavin Williamson CBE MP
Secretary of State for Education*

Letter from Deputy First Minister and Cabinet Secretary for Education and Skills to
the Secretary of State for Education – 10 March 2020

Dear Gavin,

Thank you for your letter of 26 February. I would welcome an opportunity for my officials to meet with yours to discuss a Section 30 Order under the Scotland Act 1998 to enable the Scottish Parliament to incorporate effectively the United Nations Convention on the Rights of the Child (UNCRC) in full.

Provisions in the UNCRC which relate to reserved matters include aspects of:

- *Foreign affairs etc. (Part 1 of Schedule 5, paragraph 7)*
- *Defence (Part 1 of Schedule 5, paragraph 9)*
- *Immigration and Nationality (Part 2 of Schedule 5, paragraph B6)*
- *Extradition (Part 2 of Schedule 5, paragraph B11)*
- *Social security schemes (Part 2 of Schedule 5, paragraph F1)*

I look forward to constructive engagement on your proposal.

John Swinney

Email from Scottish Government to UK Government Officials

18 March 2021

From: REDACTED

Sent: 18 March 2021 12:32

To: REDACTED

*Subject: United Nations Convention on the Rights of the Child
(Incorporation)(Scotland) Bill*

REDACTED

Further to our conversation the other week I wanted to let you know that the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Bill was passed unanimously by the Scottish Parliament on Tuesday (16 March).

A copy of the Bill as passed can be found here [bill-as-passed.pdf](#) ([parliament.scot](#))

A link to the official report of the stage 3 debate can be found here [Official Report](#) ([parliament.scot](#))

You may be interested to know that the amendments lodged by the Scottish Conservatives in the name of Alexander Stewart MSP in relation to sections 19 and 20 of the Bill and in relation to the Advocate General were not pressed.

I hope this information is helpful.

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