

**Email chain official to Ministers - UNCRC Bill and EU Charter Bill - summary of judgement and potential impact on Human Rights Bill – 05/10/21**

**From:** [redacted]>

**Sent:** 05 October 2021 18:48

**To:** Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>

**Cc:** Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights <MinisterZCBATTR@gov.scot>; DG Communities <DGCommunities@gov.scot>; Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [redacted] SGLD Human Rights Branch; [redacted]

**Subject:** FW: UNCRC Bill & EU Charter Bill – Supreme Court Reference

PS/Cabinet Secretary

CC Minister for Social Security and Local Government

CC Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights

**References of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill – Summary of Supreme Court Judgment and Potential Implications for the Human Rights Bill**

Following on from the previous email, please find attached a short overview of the potential impacts of the judgement on the Human Rights Bill. The attachment is repeated below for ease. Please note, the outcome and contents of the judgement are embargoed until 9.45am tomorrow morning.

**Overview of judgment**

- The Court found that each of the provisions referred by the UK Law Officers – across both Bills – to be outside the legislative competence of the Scottish Parliament. The judgment is therefore at the worst end of the anticipated range of potential outcomes set out in the submission of 5 August 2021.

**Potential implications for the Human Rights Bill (*to note, all of these potential implications will need to be considered further, in significant detail*)**

- The judgment makes clear that the Scottish Parliament has the competence to incorporate human rights treaties, but that we will need to carefully consider *how* to incorporate treaties, and ensure legal certainty in our approach.
- The judgment refers to drafting decisions (of relying on section 101(2) of the Scotland Act to render provisions within competence) – which are criticised - as being based on the “maximalist approach”. We will need to reflect on what the wider implications of this aspect of the judgment mean for the Human Rights Bill – for example, [redacted - S29 (1)(a) - *Relates to development of Scottish Government policy*]
- There is implied criticism of the UNCRC Bill’s mechanisms requiring “*at public expense*” “*a series of cases in the courts...before the legal effect of section 6 became clear*”. This may attract attention in relation to the access to justice and remedies recommendations from the Taskforce. Though to note, this reasoning (in effect) supports the Taskforce’s rationale about a ‘multi-institutional’ approach.

### Next steps

- The Deputy First Minister will be making a statement in Parliament tomorrow on the judgment. A copy of the draft statement will follow.
- Officials will send an email tomorrow, after the Deputy First Minister's statement, to both the Executive Board and Advisory Board members which notes the judgment, re-affirms our commitment to the Human Rights Bill and invites discussion at the next meetings.
- Across government, we will need to carefully consider the next steps. [redacted - S29 (1)(a) - Relates to development of Scottish Government policy]
- As discussed at the Deep Dive with officials yesterday, we will shortly arrange a new session to understand implications of this judgment for the Human Rights Bill.

Please let us know if you need anything else.

Thanks,

[redacted]

**[redacted]**

Scottish Government | Equality and Human Rights Division

**Mobile:** [redacted]

I'm currently working from home and can be reached by email, Teams or Skype

*Email chain – Official Submission to DFM – initial advice on SC reference – 05/10/21*

**From:** [redacted]

**Sent:** 05 October 2021 18:33

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted] > Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] (Constitution and Cabinet Director) < Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted]; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi [redacted]

Ahead of the call with DFM this evening, this please find attached a submission setting out the initial advice on the Supreme Court's judgment to be published tomorrow at 9:45. As you will be aware, we cannot share the outcome or the contents of the judgment outwith the Scottish Government before then.

UNCRC Bill - Incorporation - Supreme Court judgement - initial advice - 5 Oct 2021 details - Objective ECM (scotland.gov.uk)

I will presently share an early draft of DFM's statement to Parliament at 14:50 tomorrow.

[redacted]

From: [redacted]  
Children and Families Directorate

5 October 2021

Deputy First Minister and Cabinet Secretary for COVID recovery  
Cabinet Secretary for Education and Skills  
Cabinet Secretary for Social Justice, Housing and Local Government  
Minister for Children and Young People  
Minister for Social Security and Local Government

## **UNCRC BILL & EURO CHARTER BILL – SUPREME COURT JUDGMENT**

### **Purpose**

1. To provide you with advice on the Supreme Court's judgment on the referral of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.
2. To request that you note that further advice will be provided following further consideration of the judgment.
3. To seek your approval for the approach to immediate communications and engagement plan

### **Priority**

4. **Urgent**

### **Supreme Court referrals**

5. As you are aware, on 12 April the Attorney General and the Advocate General for Scotland (the UK Government's Law Officers) referred to the Supreme Court certain provisions of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (the UNCRC Bill) and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill (the Euro Charter Bill) to determine whether relevant provisions are within the legislative competence of the Scottish Parliament. The provisions of the UNCRC Bill referred are sections 6 (the duty on public authorities to comply with the 'UNCRC requirements': i.e. those UNCRC articles incorporated in the schedule of the Bill) and sections 19 to 21 (the interpretation duty and judicial powers of 'strike down' and 'incompatibility declarator') insofar as those provisions apply to Acts of the UK Parliament. The provisions of the Euro Charter Bill referred are sections 4(1A) (interpretation of legislation) and 5 (declaration of incompatibility). The questions referred are similar to those in relation to section 19 to 21 of the UNCRC Bill.

6. The grounds of the reference fell broadly into **two** categories:

- That the interpretative and remedies provisions (sections 19-21 of the UNCRC Bill and sections 4(1A) and 5 of the Euro Charter Bill), impermissibly modify section 28(7) of the Scotland Act 1998 (which says that section 28 does not affect the power of the UK Parliament to make laws for Scotland) insofar as they apply to Acts of Parliament (even in devolved areas).
- Section 6 was argued to raise three separate legal questions:
  - (i) whether it relates to reserved matters;
  - (ii) whether it impermissibly modifies the law on reserved matters;
  - (iii) as with sections 19-21, whether it impermissibly modifies section 28(7) of the Scotland Act.

7. The hearing to consider the reference took place on 28 and 29 June 2021. The Scottish Government's position was that the both Bills were within legislative competence.

8. Today, Ministers and policy officials have access to an embargoed version of the judgment. The Supreme Court will hand down and publish this judgment tomorrow at 9:45, and until then the outcome and/or the contents of the judgment must not be shared outwith the Scottish Government. Any breach of that embargo is a contempt of court.

## Judgment

9. [redacted - S36(1) – *confidentially in legal proceedings (covers legal advice)*]

10. In short, the Court decided:

(i) Section 19(2)(a)(ii) of the UNCRC Bill (the obligation, so far as possible, to interpret UK Acts compatibly with the UNCRC requirements) and section 4(1A) of the Euro Charter Bill (interpretation of legislation) are outside the legislative competence of the Scottish Parliament, because they would modify section 28(7) of the Scotland Act (that devolution “*does not affect the power of the Parliament of the United Kingdom to make laws for Scotland*”) (paras 24-35 and 84 of the judgment).

(ii) Section 20(10)(a)(ii) of the UNCRC Bill (the power to make “strike down declarators” in respect of UK Acts) is outside legislative competence, because it would also modify section 28(7) of the Scotland Act: paras 40-45.

(iii) Section 21(5)(b)(ii) of the UNCRC Bill (the power to make “incompatibility declarators” in respect of UK Acts) and section 5 (declaration of incompatibility) of the Euro Charter Bill are outside legislative competence, because they would also modify section 28(7) of the Scotland Act: paras 49-54 and 88.

(iv) Section 6 of the UNCRC Bill (the duty on public authorities to act compatibly with the UNCRC requirements) is outside legislative competence, because it “relates to” reserved matters, and would modify both section 28(7) of the Scotland Act and the law on reserved matters: paras 58-79. Section 101(2) of the Scotland Act cannot be construed so as to “read down” section 6 to bring it within competence.

## Analysis

11. [redacted - - S36(1) – *confidentially in legal proceedings (covers legal advice)*].

## Handling

### *Communications and Engagement*

12. There is significant public interest amongst public authorities and children's rights organisations in the UNCRC Bill and what the implications of the judgment will be for the UNCRC Bill. For example, Together Scotland have shared that they intend to send a letter to Deputy First Minister on the Supreme Court judgment tomorrow seeking commitment to a quick response and offering their support for work ahead. Similarly, the Euro Charter Bill has significant interest from local government stakeholders. We consider that it will be helpful to key stakeholders to have as much reassurance about the effect of the judgment as soon as sensible, without committing to a particular remedy or a timescale.

13. A proactive media comment will be issued in the Deputy First Minister's name once the embargo is lifted tomorrow morning at 9:45, but before Deputy First Minister gives his statement to Parliament at 14:50. Comms colleagues will share this shortly for clearance and sight other Ministers for awareness. This comment will be based on the lines below.

- The Scottish Government accepts the Supreme Court judgment and we will consider the implications carefully.
- The Deputy First Minister will make a statement to Parliament at 14:50 today.
- The Scottish Government remains committed to the incorporation of the UNCRC into Scots law to the maximum extent possible and will seek to work with the designated Member in charge regarding the implications of the judgement on the EU Charter Bill.
- This case has demonstrated the weakness of the current devolution settlement. The Scottish Parliament does not even have the powers it needs to ensure that the rights of children in Scotland are fully respected, protected and fulfilled.
- The UNCRC Bill represented the unanimous will of the previous Scottish Parliament to deliver a revolution for children's rights and make Scotland the best place in the world to grow up. It is regrettable that this Bill has been delayed and will not now become law in the form which our Parliament agreed.

14. A news release and social media will then issue following the Deputy First Minister's statement. Communications colleagues will share this for clearance tomorrow morning.

15. The proposed top lines for use after Deputy First Minister's statement to Parliament are below. These have been agreed with policy colleagues in

Constitution and UK Relations, Local Government, SGLD, communications colleagues and special advisers.

- The Scottish Government accepts the Supreme Court judgment and we will consider the implications carefully.
- The Scottish Government remains committed to the incorporation of the UNCRC into Scots law to the maximum extent possible and will seek to work with the designated Member in charge regarding the implications of the judgement on the EU Charter Bill.
- This case has demonstrated the weakness of the current devolution settlement. The Scottish Parliament does not even have the powers it needs to ensure that the rights of children in Scotland are fully respected, protected and fulfilled.
- The UNCRC Bill represented the unanimous will of the previous Scottish Parliament to deliver a revolution for children's rights and make Scotland the best place in the world to grow up. It is regrettable that this Bill has been delayed and will not now become law in the form which our Parliament agreed.
- We call on the UK Government to immediately begin talks to make sure that the Scottish Parliament has the powers it needs to give effect to children's rights in Scotland and to be able to choose how to observe and implement international obligations in areas of devolved competence where the Scottish Government has a democratic mandate to act.

16. A draft parliamentary statement for Deputy First Minister to deliver to tomorrow at 14:50 is provided separately. Draft Q&A have prepared by [redacted] colleagues and will be further updated ahead of the statement (see Annex B).

17. Officials in Children and Families will also make calls tomorrow, after the embargo, to key stakeholders (Together, Children and Young People's Commissioner Scotland, COSLA, Scottish human Rights Commission, Social Work Scotland and UNICEF) to provide reassurance and gather initial reactions.

### *Parliamentary*

41. [redacted – Section 29(1)(a) – Formulation or development of SG policy]

42. A meeting of officials with parliamentary counterparts to discuss procedural issues (particularly in terms of the reconsideration option) is scheduled for Thursday 7 October. Further advice on the legislative options for remedying the Supreme Court judgment will follow

### *Costs*

43. The issue of costs will, in due course, require to be addressed. It is likely that the UK Law Officers will seek the costs of the References from the Scottish Government. A further submission will follow on this point when the position is clearer.

*Next Steps*

44. As noted in the submission of 5 August, the next steps for a reconsideration of the Bill would be:

- Parliamentary Statement on 6 October
- Issuing of communication lines
- Consultation with stakeholders
- Fuller advice to Ministers on the options for the Bills, and wider legislative implications
- Policy instructions
- [redacted]
- PCO drafting
- Parliamentary consideration
  - Motion of reconsideration
  - Amending Stage
  - Debate and voting
- Four-week period during which any of the Advocate General for Scotland, the Attorney General or the Law Advocate may refer the Bill, as passed at reconsideration stage, to the Supreme Court (even when an amended Bill passes after reconsideration, a further reference to the Supreme Court by Law Officers is possible under section 33 of the Scotland Act)

**Summary**

45. [redacted - – Section 29(1)(a) – Formulation or development of SG policy]

**Next steps**

46. Ministers are asked to:

- Note that further advice on the judgment and approaches to address it will be forthcoming
- approve the communications handling approach set out in paras 23-27.

**[redacted]**

Children's Right Unit  
Children and Families Directorate

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Deputy First Minister and Cabinet Secretary for Covid Recovery	x				
Cabinet Secretary for Education and Skills			x		
Cabinet Secretary for Social Justice, Housing and Local Government	x				
Minister for Children and Young People			x		
Minister for Social Security and Local Government			x		
Minister for Parliamentary Business			x		
Lord Advocate			x		
Solicitor General			x		
First Minister					x
Cabinet Secretary for Constitution, External Affairs and Culture				x	

Permanent Secretary DG Education and Justice DG Communities DG Constitution and External Affairs Other officials as per covering email
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**From:** [redacted]

**Sent:** 05 October 2021 14:31

**To:** [redacted] Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** : [redacted]> Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] (Constitution and Cabinet Director) < Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted]; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted] >; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi [redacted]

With thanks to [redacted] colleagues, I have a note that provides a high level summary of the arguments. For awareness, as part of the materials to support DFM's statement to Parliament tomorrow, we will provide a Q&A also. If there is anything else DFM needs, please let us know

Thanks

H

Sections 19 to 21 – affecting UK Acts

- Section 19 is the duty to interpret legislation “so far as it is possible to do so” in a way that is compatible with the UNCRC requirements made enforceable by the UNCRC Bill. Section 20 is the power for the courts to strike down incompatible legislation. Section 21 is the power for the courts to, instead, issue a declaration that legislation is incompatible; that declaration would not, unlike strike down, affect the ongoing validity of the legislation. Courts can only use section 20 (i.e. strike down) regarding ‘devolved legislation’ which received Royal Assent before the UNCRC Bill is commenced. For future legislation, courts can only declare an incompatibility and leave it to political pressure to fix it.
- The issue that the UK Law Officers take with sections 19 to 21 is only that they apply also to Acts of the Westminster Parliament (albeit only in areas of devolved competence e.g. Westminster Bills insofar as they receive an LCM from the Scottish Parliament). The UK Law Officers state that this modifies section 28(7) of the Scotland Act 1998 and, as such, is outwith competence; section 28(7) is the rule which states that the legal rule of Parliamentary Sovereignty (i.e. the power of the Westminster Parliament to make laws for Scotland) is unaffected by the devolution settlement.

- That is the argument that the UK Law Officers made successfully regarding the first Continuity Bill provision which would have required UK Ministers to obtain SG consent for subordinate legislation in devolved areas, but the nature of the UNCRC Bill provision is different and [redacted - S36(1) – confidentially in legal proceedings (covers legal advice)].

#### Section 6 – the effect on public authorities with reserved functions

- Section 6 of the UNCRC Bill is the duty on public authorities not to act incompatibly with the UNCRC requirements. Similar arguments about Parliamentary Sovereignty are made about section 6 by the UK Law Officers. The UK Law Officers also ask whether because section 6 does not define ‘public authorities’ and is in the Policy Memorandum for the UNCRC Bill said to be able, in some circumstances, to apply to the exercise of reserved functions in Scotland, it is beyond competence, stressing it is legally uncertain. [redacted - S36(1) – confidentially in legal proceedings (covers legal advice)].

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 05 October 2021 12:41

**To:** Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** [redacted] > Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Colleagues

DFM would be grateful for a crisp distillation of our arguments for what we said was justifiable in relation to the four questions raised in the reference of the UNCRC by UK Law Officers.

Many thanks

[Redacted]

**[redacted]**

Deputy First Minister and Cabinet Secretary for Covid Recovery, John Swinney MSP

Tel: [redacted]

**From:** Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>

**Sent:** 05 October 2021 10:07

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 05 October 2021 12:41

**To:** [redacted] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

Thank you [redacted] - reading this now. Is there an SGLD precis on the stocks that could be shared?

[Redacted]

**[redacted]**

Director for Children and Families  
Scottish Government

[redacted]

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 01 October 2021 18:19

**To:** [redacted] Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** [redacted] > Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)> [redacted]; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

Hi [redacted]

Thank you for your email. DFM has confirmed he would be minded to make a statement to Parliament on Wednesday. I would be grateful if you and the team could stand ready to provide a statement and briefing at the appropriate time.

I will be in touch with you separately re details.

Many thanks

[redacted]

[redacted]

Deputy First Minister and Cabinet Secretary for Covid Recovery, John Swinney MSP

Tel: [redacted]

**From:** [redacted]

**Sent:** 30 September 2021 18:29

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** [redacted] >; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

P/O

As noted in the original submission on 5 August 2021, Ministers may wish to make a statement to the Parliament regarding the Supreme Court judgement on the day the judgment is published. We will provide advice on this aspect in the course of Tuesday. The Minister for Parliamentary Business office has confirmed time could be made available on Wednesday 6 October should Ministers wish to make a statement.

We would be grateful if DFM could confirm if [in the event that Ministers wish to make a statement] he would, in principle albeit subject to further advice, intend to make such a statement regarding the UNCRC Bill. Alternatively, another Minister could make the statement, such as the Minister for Children and Young People or the Minister for Parliamentary Business. This will allow the relevant Private Office to engage with the Parliamentary Business office as soon as possible to ensure time is allotted.

As noted, further advice will follow.

[redacted]

[redacted] | UNCRC Incorporation | **Creating Positive Futures** | **Children and Families Directorate** | Victoria Quay |

**Email chain setting up meeting between DFM and Minister for Children and young people to discuss SC judgement**

**From:** [redacted]

**Sent:** 16 November 2021 17:16

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>

**Cc:** Minister for Parliamentary Business <MinisterPB@gov.scot>; [redacted]; Cabinet Secretary for Constitution, External Affairs and Culture <CabSecCEAC@gov.scot>; First Minister <firstminister@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

[redacted]

To confirm we'll take this forward and come back to you.

Thanks,

[redacted]

**From:** [redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 16 November 2021 09:09

**To:** Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>

**Cc:** Minister for Parliamentary Business <MinisterPB@gov.scot>; [redacted]> >; Cabinet Secretary for Constitution, External Affairs and Culture <CabSecCEAC@gov.scot>; First Minister <firstminister@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]>

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Good morning [redacted]

Thank you for the below, and the separate email which contained the attached note from the Cab Sec. I am now sharing the note from the Cab Sec with the wider copypist as per our discussion.

DFM would be very happy to meet with Ms Robison to discuss – he said that needs to be part of a discussion to take further decisions on how to respond to the Supreme Court judgement.

I would be grateful if officials could co-ordinate and advise who should be invited to this meeting, as well as providing a suggested agenda and any relevant papers. Once I know who should be invited I will get time in the diary asap.

**Grateful if relevant official/s could confirm that this has been picked up.**

Many thanks

[redacted]

**[redacted]**

Deputy Private Secretary

DFM and Cabinet Secretary for Covid Recovery, John Swinney MSP

Tel: [redacted]

**From:** [redacted] > **On Behalf Of** Cabinet Secretary for Social Justice, Housing & Local Government

**Sent:** 09 November 2021 17:31

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted] Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] >; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; [redacted] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] >

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

PS/DFM,

Ms Robison would welcome the opportunity to discuss this further with the DFM.

Her preference would be [redacted – formulation or development of SG policy]

Many thanks,

[redacted]

[redacted]

**Private Secretary | Office of Cabinet Secretary for Social Justice, Housing and Local Government**

St Andrews House, Regent Road, Edinburgh, EH1 3DG

Email: [CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)

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**From**[redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery  
**Sent:** 02 November 2021 14:45  
**To:** [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>  
**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; [redacted] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] >  
**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Hello [redacted]

DFM is content to agree the recommendations but he would like a brief period of further consultation so we can make early progress on what we need to do.

Thanks

[redacted]

[redacted]

DFM and Cabinet Secretary for Covid Recovery, John Swinney MSP

Tel: [redacted]

**From:** [redacted]

**Sent:** 15 October 2021 16:46

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]

**Subject:** UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

P/Os Deputy First Minister and Cabinet Secretary for Covid Recovery  
Cabinet Secretary for Education and Skills  
Cabinet Secretary for Social Justice, Housing and Local Government  
Minister for Children and Young People  
Minister for Social Security and Local Government

Please find attached a routine submission providing further advice on the Supreme Court judgement and current considerations with respect to options available for taking forward Incorporation of the UNCRC.

Previous advice of 5 October attached for ease.

Thank you

[redacted]

**Document 23 – Officials to DFM - Ministerial statement for DFM re SC judgement -05/10/21**

**From:** [Redacted] >

**Sent:** 05 October 2021 19:53

**To:** [Redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; First Minister <firstminister@gov.scot>

**Cc:** [redacted]; Minister for Parliamentary Business <MinisterPB@gov.scot>; [Redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [Redacted]; Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [Redacted]; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; [Redacted]; Communications Constitution & Culture <CommunicationsConstitution&Culture@gov.scot> [Redacted]; [Redacted];

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

DFM/PO

If there was any chance you could provide this version of the statement to DFM for his consideration that would be very much appreciated. It is tidied up a bit and includes some additions following this evenings call.

Thanks

[Redacted];

[Redacted]; **Deputy Director: Children's Rights, Protection and Justice**  
Scottish Government, Children and Families Directorate

[Redacted];

**From:** [Redacted];

**Sent:** 05 October 2021 19:02

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; First Minister <firstminister@gov.scot>

**Cc:** [redacted]> Minister for Parliamentary Business <MinisterPB@gov.scot>; [Redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [Redacted]; Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [Redacted]; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; [Redacted]; Communications Constitution & Culture <CommunicationsConstitution&Culture@gov.scot> [Redacted]; [Redacted];  
**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

[redacted]

Many apologies for the delay. Please find attached a draft of the statement.

This requires further work but I hope is helpful to have to hand this evening

Kind regards

[redacted]

**Embargoed until 14:20 on 6 October 2021**

**Ministerial Statement: Supreme Court Judgement on the European Charter of Local Self-Government (Incorporation) (Scotland) Bill and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill**

Presiding Officer, this morning, the Supreme Court handed down its judgment on the EU Charter of Local Self-Government (Incorporation)(Scotland) Bill and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

Insofar as we have had time to consider the implications of that judgement, given the seriousness of those potential implications, I wanted to come to Parliament at the earliest opportunity to update members. I thank you and the bureau for making time to take this statement today.

Every parliamentary term has its standout moments, where this Parliament comes together to make a significant statement of intent on who we are and what we collectively stand for, showing a shared sense of purpose on what we seek to achieve as Parliamentarians for the people of Scotland.

Presiding Officer, the Scottish Parliament unanimously passing the UNCRC Bill in March was one such moment.

This Parliament set out our collective will to change the culture and practice of how we support children in Scotland. The bill and its measures made clear our intent and purpose for this and future generations of children and young people. Incorporating the United Nations Convention on the Rights of the Child directly into our domestic law would make us the first Administration in the United Kingdom and the first devolved legislature anywhere in the world to do so. We felt proud to be the Parliament that would enable this historic step to be taken and I was both honoured and humbled to be the Cabinet Secretary in charge of doing so on behalf of the Scottish Government.

We celebrated how this Bill would change the lives of children for generations. We imagined how incorporating article 12 would mean that children will have the right to be involved and heard in relation to the decisions that affect their lives. We all looked forward to seeing the improvement incorporating Article 23 would deliver in ensuring that children with disabilities have dignity, self-reliance and are able to actively participate in their community. We were certain we were doing the right thing by incorporating Article 3 so that children's best interests are a primary consideration in decision-making.

On 12 April, however, the UK Government's law officers referred certain provisions of the bill to the Supreme Court. That reference meant that the Bill could not be presented for royal assent, and, accordingly, could not become law until the reference was determined. Today we have that determination.

Presiding officer, while we fully respect the court's judgment, and as a responsible government, we will of course abide by the ruling, we cannot help but be bitterly disappointed.

It confirms that we are constitutionally prohibited from enacting legislation that will enshrine and fully protect the rights of our children.

For this judgement lays bare the weakness and absurdity of the limits on the devolution settlement. This judgement means it is outwith the power of the Scottish Parliament to pass legislation to fully ensure the rights of Scotland's children are protected.

Before I discuss the implications of that in more detail, we should not forget that the judgement also affects the European Charter of Self-Government bill. That bill strengthened local government by incorporating the Charter into Scots law. Starting as a members bill it too, was passed unanimously by the Scottish Parliament and supported by local government and CoSLA.

[redacted]

As with any Court decision, the judgment clarifies the law. However, what this judgment does is expose the devolution settlement to be even more limited than we had understood (and operated) for the past 21 years of devolved government. This judgment exposes the limitations in the devolution settlement on the ability of our democratically elected Scottish Parliament to legislate to protect children's rights in the way it chooses. Strikingly, it has now been clarified that these limitations extend to areas of devolved competence for the mere reason that existing statutory provision just so happens to be in an Act of the Westminster Parliament. In many cases, that will be because we inherited those Acts on devolution, such as the Education (Scotland) Act 1980 and the Children (Scotland) Act 1995.

The effect of this distinction is arbitrary. It means that, while the Scottish Parliament has the competence to incorporate the UNCRC, it cannot now decide for itself how it does that. As such the Scottish Parliament cannot now entirely determine how to protect children's rights even in the wholly devolved area of education. Significant aspects of how that protection is ensured (including the enforcement mechanism of judicial review) are now outwith competence where the Education (Scotland) Act 1980 applies i.e. to the foundations of all primary and secondary education delivery by local authorities in Scotland. However, the Scottish Parliament could, it seems, still do so in respect of children's rights affected by post-devolution ASPs (like Gaelic education under the Education (Scotland) Act 2016). That is incoherent from a policy perspective.

There is no doubt that the implications of this judgment are significant from a children's rights perspective and in terms of this government' and indeed this Parliament's aspirations for the country we want our children to grow up in.

The Scottish Government remains absolutely committed to the incorporation of the UNCRC into Scots law to the maximum extent possible. We want to ensure that we pursue that policy in a way that can be enacted and, therefore, made real in practice.

Members may wish to recall what children told us about how incorporation would change things for the better.

Abigail, a young adviser at the commissioner's office, said:

"incorporation is a way of children having their voices heard, they know that they will be listened to, and they know that they matter".

In the evidence that the Children's Parliament gave in the consultation on the bill last year, a child said:

"I think you should make children's rights law because it will keep a lot more children safe".

Bruce Adamson, the Children and Young People's Commissioner for Scotland, called the incorporation of the UNCRC into Scots law "the most

important thing we can do to protect and uphold the rights of children and young people”.

The Supreme Court has criticised the ‘maximalist approach’ the Scottish Government took as deliberately exceeding the limitations of competence rather than ensuring clarity on the face of the statute book.

It is normal for the Scottish Government to seek to exercise its devolved powers to the maximum possible effect. Indeed, we have a democratic mandate to do so and we owe it to our stakeholders and the children of Scotland to seek to protect them to the maximum extent possible.

The law in this area is uncertain and had not previously been tested. The Scottish Government took a reasonable view on these difficult questions, a view with which the Presiding Officer agreed, and it was unanimously supported by Parliament.

The Scottish Government does not accept that any policy other than pursuing better protection of children’s rights lay behind the UNCRC Bill.

However, the Scottish Government notes that this judgment underscores that domestic legal effect to international human rights treaties can only be achieved through incorporation and that, while it is within the Scottish Parliament’s competence to pursue such incorporation, the nature of our current devolution settlement imposes limitations on the extent and manner in which we can do that.

It is regrettable that this Bill has been delayed and will not now become law in the form which our Parliament agreed. We remain committed to commencement of the Bill as soon as possible, albeit aspects of the Bill will have to be revisited. Whilst the reference means that the Bill cannot receive Royal Assent at this stage, the majority of work in relation to implementation can and is continuing, consistent with the fact that the Supreme Court has given its judgment.

I want to provide as much reassurance on this point as possible. The work continues to incorporate children's rights into Scots law, policy and practice.

The UNCRC is the most widely ratified international statement, but very few have committed to take the journey that Scotland so clearly wants to take. To everyone who has walked with us this far on that journey, encouraging us along the way, it is my turn to reassure you that we will reach our destination. This Government remains committed to the incorporation of the UNCRC to the maximum extent possible.

Yet, there is no doubt that we may not yet wholly comprehend all the implications from this judgement – it will require careful consideration and I will be happy to keep Parliament updated.

But one thing, Presiding Officer, is already crystal clear. No matter what the Scottish people vote for or seek their Parliament to do on their behalf, this judgement suggests that at any point the UK Government

has the right to seek a court ruling limiting those ambitions and how we use those powers to make Scotland a better place for us all to live. The myth of devolution giving Scotland the powers it needs is dead. This Supreme Court ruling buried it.

**Document 25 – Email chain regarding Ministerial meeting re post SC judgement options – 22/11/21**

**From:** [redacted] > **On Behalf Of** Cabinet Secretary for Social Justice, Housing & Local Government  
**Sent:** 22 November 2021 15:15  
**To:** [redacted] Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>  
**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] >; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)> [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]  
**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Hello [redacted]

Thanks for this, Ms Robison has noted and is also content with a joint meeting.

Many thanks,  
 [redacted]

[redacted]

**Deputy Private Secretary | Office of Cabinet Secretary for Social Justice, Housing and Local Government**

St Andrews House, Regent Road, Edinburgh, EH1 3DG  
 Email: [CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)

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**From:** [redacted] **On Behalf Of** Minister for Children & Young People

**Sent:** 19 November 2021 12:26

**To:** [redacted] Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>

**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; [redacted] ; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] >

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Hi [redacted]

Ms Haughey has noted your email and is content with your proposal for the joint meeting.

She would also suggest that the Children's Commissioner is added to the proposed list of key organisations / stakeholders to be met with.

Thanks

[redacted]

**[redacted] | Private Secretary | Minister for Children and Young People**

| St Andrews House, Regent Road, Edinburgh, EH1 3DG

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**From:** [redacted]

**Sent:** 18 November 2021 10:44

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>

**Cc:** Minister for Parliamentary Business <MinisterPB@gov.scot>; [redacted] >; Cabinet Secretary for Constitution, External Affairs and Culture <CabSecCEAC@gov.scot>; First Minister <firstminister@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; [redacted] ; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

DFM, Ms Robison and Ms Haughey,

[redacted - S36(1) - Confidentially in legal proceeding (includes legal advice)]

While this sequencing is not essential, we recommend that the meeting between DFM, Ms Robison and Ms Haughey takes place after this [redacted], by which time we may be able to offer a more rounded assessment of the viability of each alternative legislative route. Please let me know if you are content with this.

We are scoping out a full list of stakeholders for targeted engagement [redacted S36(1) - Confidentially in legal proceeding (includes legal advice)] and can publish a paper that sets out: Minister's ambition; what the SC judgment said; the proposed changes under the preferred option for the Bill, and a small number of questions.

We will scope the list of stakeholders in collaboration with the UNCRC Strategic Implementation Board when it meets next week. At the moment we envisage that potential forums for engagement would be the: DCAF Collective Leadership Group; Justice Board; Youth Justice Board; and the Human Rights Advisory Group.

Consulting with the interim consortium of children and young people's organisations will also be a priority. Other forums that directly involve children and young people could include Our Hearings, Our Voice.

One to one meetings with key organisations will also be required. For duty bearers, this would include COSLA, SOLACE, Police Scotland, Health & Social Care Management Board. For third sector, it would be UNICEF, CYPCS, Together and Law Society.

I will come back to Ministers with a full list in due course but I'm very happy to receive further suggestions now.

[redacted]

[redacted]  
Joint Head - Children's Rights Unit  
Children's Rights, Protection and Justice Division  
Children and Families Directorate | Scottish Government  
[redacted]

My working days are Monday to Thursday.

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 16 November 2021 11:07

**To:** Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>

**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; Lord Advocate <[LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)>; Solicitor General <[SolicitorGeneral@gov.scot](mailto:SolicitorGeneral@gov.scot)>; [redacted] >; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; [redacted] ; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Hi [redacted]

Of course – Ms Haughey should join. I will keep you in the loop.

Thanks

[redacted]

[redacted]

Deputy Private Secretary

DFM and Cabinet Secretary for Covid Recovery, John Swinney MSP

**From:** [redacted] > **On Behalf Of** Minister for Children & Young People

**Sent:** 16 November 2021 11:04

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; [redacted] >; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>

**Cc:** Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] >; Cabinet Secretary for Constitution, External Affairs and Culture <[CabSecCEAC@gov.scot](mailto:CabSecCEAC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; [redacted] ; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]

**Subject:** RE: UNCRC BILL & EUROPEAN CHARTER BILL – SUPREME COURT JUDGMENT - FURTHER ADVICE

Hi [redacted]

Could Ms Haughey join this meeting?

Thanks

[redacted]

[redacted] | **Private Secretary** | **Minister for Children and Young People**

| St Andrews House, Regent Road, Edinburgh, EH1 3DG

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**Officials to Ministers – submission to DFM on approaches for discussion with UKG -08/10/21**

**From:** [REDACTED]

**Sent:** 08 October 2021 16:44

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>;  
[REDACTED]

**Cc:** [REDACTED] >; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>;  
[REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference - approaches to UKG

PS/DFM

[REDACTED]

I attach some brief initial advice for DFM on this request; following discussions with SGLD and other colleagues.

[REDACTED].

There is also a question of how focussed any approach would be on fixing matters just for the current Bills or the wider and deeper issues the judgment raises for the devolution settlement, including issues that should (in our view) concern UKG.

It might be useful for officials and SPADs to follow up last week's discussion on approaching UKG, taking account of the wider context.

[REDACTED]

[REDACTED]  
 CUKR  
 8 October 2021

## Deputy First Minister and Cabinet Secretary for COVID recovery

### UNCRC BILL AND EURO CHARTER BILL – SUPREME COURT JUDGMENT

#### Purpose

1. To provide brief initial advice to DFM on potential options open to Ministers to approach the UK Government to implement the policy intention of the UNCRC Bill (and the European Charter of Local Self-Government Bill) following the UK Supreme Court judgment this week. This note focuses on the constitutional aspects; wider policy options for the Bills are currently under development.
2. In summary, there might be ways of amending the Scotland Act to address the UKSC's points but these require further consideration to ensure they are effective and technically feasible before approaching the UK Government.

#### Priority

3. Routine. This submission is preliminary advice for the DFM's information.

#### Background and discussion

4. There are two major elements to the court's judgment:
  - i. sections of the Bills on interpretation and remedies are beyond the Parliament's competence as they affect Westminster legislation, because they empower the courts to change its intended meaning, or strike it down, or condemn it as incompatible with the incorporated treaty rights, and therefore impliedly constrain Westminster's power to make laws for Scotland as preserved in section 28(7) of the Scotland Act (which is in turn protected by schedule 4)
  - ii. section 6 of the UNCRC Bill, requiring public bodies to act compatibly with the Convention articles, is outside competence as it is not limited to bodies or functions or the law within devolved competence; it is not permissible to rely on section 101 of the Scotland Act (which allows the courts to read provisions narrowly to ensure they are within competence) as that would introduce too much uncertainty into the law and in this case might circumvent safeguards in the Scotland Act that ensure Bills are within competence
5. [REDACTED - Section 29(1)(a) - Relates to development of Scottish Government policy]

#### Recommendation

10. DFM is invited to note the advice above. Options for approaching the UK Government are closely related to the wider options for taking forward the Bills following the judgment and further advice on both aspects is now being prepared.

[REDACTED]

Constitution and UK Relations Division  
8 October 2021

**Officials to Minister - Interview bid: UNCRC Bill & EU Charter Bill – Supreme Court Reference - ITV Border – 06/10/21**

**From:** [redacted],>

**Sent:** 06 October 2021 12:44

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>

**Cc:** [redacted], Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>

**Cc:** [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]; [redacted];

**Subject:** RE: Interview bid: UNCRC Bill & EU Charter Bill – Supreme Court Reference - ITV Border

Thanks [redacted],

ITV Border will be ready in the Garden Lobby for 3.20pm.

They have said it will be a short piece to camera.

Thanks

[redacted],

**From:** [redacted],  
> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery  
**Sent:** 06 October 2021 12:26  
**To:** [redacted], Deputy First Minister and Cabinet Secretary for Covid Recovery  
<[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>  
**Cc:** [redacted; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>;  
[redacted]; [redacted]  
**Subject:** RE: Interview bid: UNCRC Bill & EU Charter Bill – Supreme Court Reference - ITV Border

[redacted],

The DFM is content to do the bid.

His time is very limited so it would be really helpful if it could all be set up for 15:20

Thanks

[redacted],

**From:** [redacted]

**Sent:** 06 October 2021 10:31

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>

**Cc:** [redacted; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]

**Subject:** Interview bid: UNCRC Bill & EU Charter Bill – Supreme Court Reference - ITV Border

[redacted],

Peter McMahon of ITV Border has asked to speak to DFM this afternoon following his parliamentary statement on the Supreme Court ruling on the UNCRC Bill and EU Charter Bill.

They are looking for an 'as live' interview in Parliament after 3.30pm if possible.

Comms and Spads have discussed and agree DFM should take part.

Is DFM content to undertake this interview?

For awareness – we anticipate that there may be further interview requests on this, we will keep PO updated.

Thanks

[redacted]

**Senior Media Manager | Communications Education and Skills | Scottish Government**

[redacted] | [redacted]

**From:** [REDACTED]

**Sent:** 06 October 2021 17:34

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [REDACTED]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi all,

[redact]

I think he is keen from views from both a policy and constitution angle.

Thanks,  
[REDACTED]

[REDACTED]

Special Adviser to the First Minister

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**Email chain – Policy to DFM – Labour criticism – The Scotsman 05/11/21**

**From:** [redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 05 November 2021 13:20

**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery  
<DFMCSCR@gov.scot>

**Cc:** Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; [redacted]; News Desk <Newsdesk@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]

**Subject:** Lines to clear: UNCRC - Labour criticism - Scotsman

Hi [redacted]

The DFM is content to clear the line.

Thanks

[redacted]

**[redacted]** | Deputy Private Secretary to Deputy First Minister and Cabinet Secretary for Covid Recovery – John Swinney MSP | The Scottish Government | Web: [www.gov.scot](http://www.gov.scot) | Tel: [redacted] | Email: [DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)

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**From:** [redacted]>

**Sent:** 05 November 2021 13:01

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>

**Cc:** Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; [redacted]; News Desk <Newsdesk@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot> [redacted]; [redacted]

**Subject:** Lines to clear: UNCRC - Labour criticism - Scotsman

PO,

The Scotsman have asked for a response to comments from Labour (copied below) on the lack of movement on the UNCRC bill since the Supreme Court ruling.

Comms, Spads and officials have discussed and agreed the response below.

Is the DFM content?

SG Spokesperson said:

“We remain committed to the incorporation into law of the United Nations Convention on the Rights of the Child to the maximum extent possible as soon as practicable.

“We are urgently and carefully considering the implications of the Supreme Court judgment and how best to take forward incorporation. We are undertaking engagement with stakeholders, and the Deputy First Minister will come back to the Parliament in due course with our proposals in light of UK Supreme Court decision.

“While the judgement means that the UNCRC (Incorporation) (Scotland) Bill cannot receive Royal Assent in its current form, the majority of work in relation to implementation of the UNCRC can and is continuing.”

Thanks

[redacted]

Scottish Labour’s Constitution spokesperson Sarah Boyack MSP said:

“It’s now been a month since the Supreme Court made their ruling. In that time we’ve heard plenty of sniping and political attacks from the SNP – but not a word on when they will bring the Bill back to Parliament.

“It is not acceptable that after so much talk, we’re still waiting for action.

“The more they drag their feet the more it confirms suspicions that this was little more than an exercise in grievance stoking.

“As the SNP and the Tories focus on playing political games it is children who are losing out.

“The SNP must drop the shameful posturing and prioritise fixing and implementing this crucial legislation as a matter of urgency.”

**From:** [redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery  
**Sent:** 05 October 2021 17:12  
**To:** [redacted]  
**Cc:** [redacted]; SGLD Head of Local Government & Economy Division <SGLD\_Head\_of\_Local\_Government\_&\_Economy\_Division@gov.scot>; [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>  
**Subject:** RE: Supreme Court reference 2021/0079 - catch up

Hi [redacted]

The DFM would like to have a meeting this evening to discuss this ahead of tomorrow.

The meeting will be at 19:00 can you let me know who should be invited and I will send over the invite. I would be grateful if the submission and draft speaking notes can be provided ahead of this as well.

Thanks

[redacted]

[redacted] | Deputy Private Secretary to Deputy First Minister and Cabinet Secretary for Covid Recovery – John Swinney MSP | The Scottish Government | Web: [www.gov.scot](http://www.gov.scot) | Tel: [redacted] | Email: [DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)

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**From:** [redacted]

**Sent:** 05 October 2021 16:45

**To:**; [redacted] >; [redacted] **Cc:** [redacted]; Director for Children and Families  
<DirectorforChildrenandFamilies@gov.scot; [redacted]

**Subject:** RE: Supreme Court reference 2021/0079 - catch up

**Importance:** High

Hi All

With thanks to SGLD colleagues and to you for your contributions earlier today, please see the draft submission to Ministers with initial advice on the judgment. I would like to send this as soon as possible so grateful if you could prioritise reviewing for your interest.

Many thanks

H

-----Original Appointment-----

**From:** [redacted]

**Sent:** 30 September 2021 10:52

**To:**[redacted]); SGLD UNCRC Implementation; [redacted]; SGLD Head of Local Government & Economy Division; [redacted]

**Cc:** [redacted]); Director for Children and Families; [redacted]; [redacted]

**Subject:** Supreme Court reference 2021/0079 - catch up

**When:** 05 October 2021 11:30-13:00 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

**Where:** Microsoft Teams Meeting

Hi All

I'm suggesting a time for us to convene on Tuesday given all our connected interests in the reference. I believe that starting at 11:30 should give us time to read the judgment, which policy colleagues should have from 9.45. We also may not need all of the allocated time but I thought it best to hold it in our diaries.

SGLD colleagues- grateful if you could advise whether LSLA should be included in this discussion or not.

I will circulate a draft agenda ahead of the meeting.

Thanks

[redacted]

**DFM to officials - RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference – 06/10/21**

**From:** [redacted]

**Sent:** 06 October 2021 10:07

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)> [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted]; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi [redacted],

Thanks for this update.

The DFM has commented that we to maintain engagement to demonstrate good faith and also to ensure there is awareness of the complexity of the situation ie parliamentary legislative timetable etc.

Thanks

[redacted]

**From:** Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>

**Sent:** 06 October 2021 10:16

**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted]; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted]; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)> [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted]; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Just hijacking this copylist to give a quick read-out of my call with the Children's Commissioner a few moments ago:

- [redacted -Section 30(b) – free and frank provision of advice or exchange of views ]

Michael

[redacted]  
Director for Children and Families  
Scottish Government

[redacted]

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 06 October 2021 09:56

**To:** [redacted] >; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted] >; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] [redacted] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] >; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Good morning

DFM has asked to see a revised version of his statement by around 11am – is that looking like it will be possible?

Regarding the table DFM asked for, I did commission this for 12:00 but if it was available any earlier that would also be very helpful as DFM is keen to familiarise himself with the material.

Thanks very much to you all and sorry to add pressure when I know you will already be working at pace.

Many thanks

[redacted]

[redacted]

Deputy First Minister and Cabinet Secretary for Covid Recovery, John Swinney MSP

[redacted]

**From:** [redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 05 October 2021 21:17

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 06 October 2021 09:56

**To:** [redacted] >; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted] >; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [redacted] [redacted] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [redacted] >; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [redacted]; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [redacted] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [redacted]

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Colleagues

Please see revised statement by DFM.

DFM has made a DN where he would like officials to try to express two sections any more clearly than has already been the case.

DFM has also asked that we try to get quotes from people in other parties ideally supporting a maximalist position or giving support for the Bill.

Grateful for a revised version as soon as possible in the morning.

Many thanks

[redacted]

[redacted]

Deputy Private Secretary

Deputy First Minister and Cabinet Secretary for Covid Recovery, John Swinney MSP

[redacted]

**Email chain - DFM to officials RE: FOR CLEARANCE: Pro-active statement - UNCRC Bill & EU Charter Bill – Supreme Court Reference – 05/10/21****From:** [redacted] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery**Sent:** 05 October 2021 21:25**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>**Cc:** First Minister <firstminister@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Cabinet Secretary for Constitution, External Affairs and Culture <CabSecCEAC@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Minister for Parliamentary Business <MinisterPB@gov.scot>; [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted] >; Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [redacted]; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; [redacted]; [redacted]; Legal Secretariat to the Lord Advocate <DLPCEALSLA@gov.scot>; [redacted] SGLD UNCRC Implementation <UNCRCImplementation@gov.scot>; [redacted]; Communications Social Justice, Housing & Local Government <CommunicationsSocialJusticeHousing&LocalGovt@gov.scot>; [redacted]**Subject:** RE: FOR CLEARANCE: Pro-active statement - UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi [redacted]

Please see slightly revised lines below:

Mr Swinney said:

“While we fully respect the court’s judgment, it lays bare the weakness of, and the limits in, the devolution settlement. The ruling means it is outwith the power of the Scottish Parliament to pass legislation it considers necessary to fully ensure the rights of Scotland’s children are protected.

“The UNCRC Bill was created to deliver a revolution in children’s rights, making sure children and young people are involved in decisions that affect their lives. The Bill was backed unanimously by the Scottish Parliament and celebrated as a landmark by campaigners across the country.

“The European Charter of Self-Government Bill strengthens local government by incorporating the Charter into Scots law. Starting as a Member’s Bill, it, too, was passed unanimously by the Scottish Parliament and it was supported by local government and COSLA.

“Today’s judgment will require careful consideration. I will update Parliament further later today, but one thing is already crystal clear: the devolution settlement does not give Scotland the powers it needs.”

Thanks

[redacted]

[redacted]

Deputy First Minister and Cabinet Secretary for Covid Recovery, John Swinney MSP

Tel: [redacted]

**From:** [redacted]

**Sent:** 05 October 2021 18:01

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>

**Cc:** First Minister <firstminister@gov.scot>; Cabinet Secretary for Education and Skills <CabSecES@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government <CabSecSJHLG@gov.scot>; Cabinet Secretary for Constitution, External Affairs and Culture <CabSecCEAC@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Minister for Social Security and Local Government <MinisterSSLG@gov.scot>; [redacted] >; Minister for Parliamentary Business <MinisterPB@gov.scot>; [redacted]; Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [redacted] >; Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [redacted]; DG Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG Constitution and External Affairs <dgcea@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Communications Education & Skills <CommunicationsEducation&Skills@gov.scot>; [redacted]; Communications Social Justice, Housing & Local Government <CommunicationsSocialJusticeHousing&LocalGovt@gov.scot>; [redacted]

**Subject:** FOR CLEARANCE: Pro-active statement - UNCRC Bill & EU Charter Bill – Supreme Court Reference

### **PO/Deputy First Minister and Cabinet Secretary for Covid Recovery**

The following statement has been drafted to issue to media tomorrow morning following publication of the Supreme Court judgment. Grateful for clearance.

Many thanks

[redacted]

## **Supreme Court judgment**

Deputy First Minister John Swinney has responded to the Supreme Court judgment on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

The Supreme Court has ruled that certain parts of both Bills are not within the legislative competence of the Scottish Parliament.

Mr Swinney said:

“While we fully respect the court’s judgment, it lays bare the weakness of, and the limits in, the devolution settlement. The ruling means it is outwith the power of the Scottish Parliament to pass legislation to fully ensure the rights of Scotland’s children are protected.

“The UNCRC Bill was created to deliver a revolution in children’s rights, making sure children and young people are involved in decisions that affect their lives. The Bill was backed unanimously by the Scottish Parliament and celebrated as a landmark by campaigners across the country.

“The European Charter of Self-Government Bill strengthens local government by incorporating the Charter into Scots law. Starting as a Member’s Bill, it, too, was passed unanimously by the Scottish Parliament and it was supported by local government and COSLA.

“Today’s judgment will require careful consideration. I will update Parliament further later today, but one thing is already crystal clear: the devolution settlement does not give Scotland the powers it needs.”

## **Background**

In March 2021, the Scottish Parliament voted unanimously for Scotland to become the first devolved nation in the world to directly incorporate the United Nations Convention on the Rights of the Child (UNCRC) into domestic law.

The UNCRC Bill aims to deliver the highest protection possible for children’s rights across Scotland within the powers of this Parliament and ensure that a rights-respecting approach is at the heart of our recovery from the pandemic.

The European Charter Bill was passed unanimously by the Scottish Parliament in March 2021.

[redacted]

Communications Education & Skills

Desk: [redacted]

Scottish Government | [news.gov.scot](https://www.news.gov.scot)

Email chain re UNCRC Bill and EU Charter Bill – Supreme Court Reference -

**From:** [REDACTED]

**Sent:** 06 October 2021 17:34

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [REDACTED]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Hi all,

[redact]

I think he is keen from views from both a policy and constitution angle.

Thanks,  
[redacted]

[redacted]  
Special Adviser to the First Minister  
[redacted]

*Please note Scottish Ministers, Special advisers and the Permanent Secretary to the Scottish Government are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot) for information*

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 06 October 2021 14:48

**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery

<DFMCSCR@gov.scot>; [redacted];>; Cabinet Secretary for Education and Skills

<CabSecES@gov.scot>; Cabinet Secretary for Social Justice, Housing & Local Government

<CabSecSJHLG@gov.scot>; Minister for Children & Young People <MinisterCYP@gov.scot>; Minister

for Social Security and Local Government <MinisterSSLG@gov.scot>; First Minister

<firstminister@gov.scot>; Minister for Parliamentary Business <MinisterPB@gov.scot>

**Cc:** [redacted]; Minister for Parliamentary Business <MinisterPB@gov.scot>; [REDACTED] >;

Director for Children and Families <DirectorforChildrenandFamilies@gov.scot>; [REDACTED]

Director for Equality, Inclusion and Human Rights <directorEIHR@gov.scot>; [REDACTED] DG

Education & Justice <dgej@gov.scot>; DG Communities <DGCommunities@gov.scot>; DG

Constitution and External Affairs <dgcea@gov.scot>; Permanent Secretary

<PermanentSecretary@gov.scot>; Communications Education & Skills

<CommunicationsEducation&Skills@gov.scot>; [REDACTED] >; Communications Constitution &

Culture <CommunicationsConstitution&Culture@gov.scot>; [REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

[redacted]

To confirm that this change has been made.

Many thanks

[redacted]

**From:** [redacted]>**On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery

**Sent:** 06 October 2021 13:22

**To:** [redacted]>Deputy First Minister and Cabinet Secretary for Covid Recovery

<[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]>; Cabinet Secretary for Education and Skills

<[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government

<[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister

for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister

<[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>

**Cc:** [redacted]>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >;

Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED]

Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG

Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG

Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary

<[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills

<[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution &

Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

Colleagues

Following further consideration by DFM, I attach the finalised statement.

Many thanks

[redacted]

**From:** [redacted]

**Sent:** 06 October 2021 12:54

**To:** [redacted]>Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>  
**Cc:** [redacted]>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED] >; Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] >; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;  
**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

DFM/PO,

I can confirm there are no issues with DFM edits to the statement. Clean copy attached.

[redacted]

[redacted]

**Deputy Director: Children's Rights, Protection and Justice**  
Scottish Government, Children and Families Directorate

[redacted]

**From:** [redacted] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Covid Recovery]

**Sent:** 06 October 2021 12:31

**To:** [redacted]>Deputy First Minister and Cabinet Secretary for Covid Recovery  
<[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]>; Cabinet Secretary for Education and Skills  
<[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government  
<[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister  
for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister  
<[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>  
**Cc:** [redacted]>; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >;  
Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED]  
Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG  
Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG  
Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary  
<[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills  
<[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution &  
Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;  
**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

[redacted]

Please find attached a version of the statement with tracked changes proposed by DFM. I would be grateful if you could consider and confirm that they raise no particular issues. DFM has asked that one quote be extracted and added to his briefing pack.

Please send up a finalised version as soon as you can.

Many thanks

[redacted]

**From:** [redacted]

**Sent:** 06 October 2021 11:35

**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;

**Subject:** RE: UNCRC Bill & EU Charter Bill – Supreme Court Reference

DFM/PO,

Please see attached version of the statement amended to take Kate's points into account.

Thanks

Lesley

[redacted]

**Deputy Director: Children's Rights, Protection and Justice**  
Scottish Government, Children and Families Directorate

[redacted]

**From:** [redaction]

**Sent:** 06 October 2021 10:22

**To:** [redacted]; Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; [redacted]; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>; Cabinet Secretary for Social Justice, Housing & Local Government <[CabSecSJHLG@gov.scot](mailto:CabSecSJHLG@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>; Minister for Social Security and Local Government <[MinisterSSLG@gov.scot](mailto:MinisterSSLG@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>

**Cc:** [redacted]; Minister for Parliamentary Business <[MinisterPB@gov.scot](mailto:MinisterPB@gov.scot)>; [REDACTED] >; Director for Children and Families <[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; [REDACTED] Director for Equality, Inclusion and Human Rights <[directorEIHR@gov.scot](mailto:directorEIHR@gov.scot)>; [REDACTED] DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; DG Communities <[DGCommunities@gov.scot](mailto:DGCommunities@gov.scot)>; DG Constitution and External Affairs <[dgcea@gov.scot](mailto:dgcea@gov.scot)>; Permanent Secretary <[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; Communications Education & Skills <[CommunicationsEducation&Skills@gov.scot](mailto:CommunicationsEducation&Skills@gov.scot)>; [REDACTED] >; Communications Constitution & Culture <[CommunicationsConstitution&Culture@gov.scot](mailto:CommunicationsConstitution&Culture@gov.scot)>; [REDACTED] >;

DFM/PO

Please see attached revised statement.

Further Briefing material including the table DFM requested is being prepared.

Thanks

[redacted]

[redacted]

**Deputy Director: Children's Rights, Protection and Justice**  
Scottish Government, Children and Families Directorate

[redacted]

**Email Officials to Ministers re: Government Initiated Question on UNCRC Implementation  
12/11/21**

**From:** [redacted]

**Sent:** 12 November 2021 14:48

**To:** Deputy First Minister and Cabinet Secretary for Covid Recovery <[DFMCSCR@gov.scot](mailto:DFMCSCR@gov.scot)>; Minister for Children & Young People <[MinisterCYP@gov.scot](mailto:MinisterCYP@gov.scot)>

**Cc:** SGLD UNCRC Implementation Advisory Team

<[SGLDUNCRCImplementationAdvisoryTeam@gov.scot](mailto:SGLDUNCRCImplementationAdvisoryTeam@gov.scot)>; Permanent Secretary

<[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; ET FMQ/PQ Mailbox

<[ETFMQPQ@gov.scot](mailto:ETFMQPQ@gov.scot)>; Director for Children and Families

<[DirectorforChildrenandFamilies@gov.scot](mailto:DirectorforChildrenandFamilies@gov.scot)>; ParlyClerk Scotland <[ParlyClerkScotland@gov.scot](mailto:ParlyClerkScotland@gov.scot)>;

[redacted]; Minister for Parliamentary Business and Veterans <[MinisterPBV@gov.scot](mailto:MinisterPBV@gov.scot)>; First

Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; Cabinet Secretary for Education and Skills <[CabSecES@gov.scot](mailto:CabSecES@gov.scot)>

**Subject:** World Children's Day 2021 - GIQ on UNCRC implementation - ministerial submission

Please find attached a 2 page submission that seeks your views on the wording of and lodging arrangement for a GIQ to inform Parliament of the publication of two reports on 19 November that demonstrate how we're implementing UNCRC.

A response is required in time to have the question with the Parliamentary Clerk on Tuesday 16 November.

[redacted]

[redacted]

Joint Head - Children's Rights Unit

Children's Rights, Protection and Justice Division

Children and Families Directorate | Scottish Government

Mobile: [redacted]

My working days are Monday to Thursday.