Education (Scotland) Bill

Child Rights and Wellbeing Impact Assessment (CRWIA)

May 2024

Scottish Government
Riaghaltas na h-Alba

Disclaimer

This **draft** document is an **initial assessment** of the impact of the Education (Scotland) Bill and Scottish Government will continue to review and update this document where required during the parliamentary process. Any future iterations will reflect an increased understanding of these impacts as the amount of data and research available continues to grow.

This impact assessment should be read in conjunction with the Equality Impact Assessment[1] and the Fairer Scotland Duty Assessment[2].

[1] Education (Scotland) Bill - EQIA
[2] Education (Scotland) Bill- FSDA

1. Brief Summary

The Education (Scotland) Bill forms part of the wider policy to reform education in Scotland, in this case by providing the legal underpinning to support a new qualifications body to replace the Scottish Qualifications Authority and the removal of the inspectorate function from Education Scotland, thereby creating a new independent inspection body. The remainder of Education Scotland will be replaced with a new national education agency. There is no rationale to include provisions related to this agency in the Bill, as it will be an executive agency exercising the functions of the Scottish Ministers.

The then Cabinet Secretary for Education and Skills appointed an independent advisor, Professor Ken Muir in August 2021 to engage widely with stakeholders and report findings and recommendations to the Scottish Government on the implementation of the OECD's recommendations relating to the implementation of the Curriculum for Excellence (CfE) across Broad General Education (BGE) and the Senior Phase. Professor Muir's report, Putting Learners at the Centre: Towards a Future Vision for Scottish Education[3], was published in March 2022 (see Stage 2 for further details).

Following on from this report, the then Cabinet Secretary for Education and Skills announced in March 2022 that Education Scotland would be replaced by a new national agency for education (which does not require legislation) and an independent inspectorate.

In addition to targeted consultation on the Scottish Government's proposals with stakeholders in early 2023, a public consultation on the proposed content of the Bill was undertaken between 7 November and 18 December 2023.[4] The consultation sought specific views on the detail of creating a new qualifications body and approaches to enhancing the role inspection plays in improving education, including potentially through legislation. The consultation incorporated tailored consultation of children and young people – this is set out below.

The policy aims of the Education Reform programme are to:

- Design and deliver a national organisational infrastructure for education in Scotland that more effectively supports the system to deliver the vision for education in Scotland;
- Achieve the right balance of responsibility and autonomy between the different parts of the education system, including national and local government, national education bodies and schools themselves;
- Revise, simplifying where possible, the articulation of CfE, so that it is as widely shared and understood as possible; and

[3] Putting Learners at the Centre: Towards a Future Vision for Scottish Education (www.gov.scot)
[4] Education Reform: A Consultation on the provisions of the Education Bill - Scottish Government consultations - Citizen Space

- Have in place a system which supports a coherent learner journey, within which curriculum and assessment are aligned at all levels.

The National Outcomes which the provisions in the Bill will seek to support are:

- We are well educated, skilled and able to contribute to society.
- We grow up loved, safe and respected so that we realise our full potential.
- Public services treat people with dignity and respect.

Start date of relevant proposal: This work stemmed from the independent review by Professor Ken Muir, which was commissioned by the Scottish Government in August 2021.

Start date of CRWIA process: The CRWIA implications have been considered concurrent with the decision to legislate for a new qualifications body and independent inspectorate which was announced in March 2022.

2. Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18?

'Direct' impact refers to policies/measures where children and young people are directly affected by the proposed changes, e.g. in early years, education, child protection or looked after children (children in care).

'Indirect' impact refers to policies/measures that are not directly aimed at children but will have an impact on them. Examples include: welfare reforms, parental leave, housing supply, or local transport schemes.

The policy to reform the education system will have a direct impact on children and young people as follows:

- improved understanding and support of CfE amongst parents and carers;
- opportunities for all learners that are appropriate for their achievement potential;
- reduced inequality and unwarranted variation;
- increased influence for learners and young people in the decisions that affect their education;
- consistent experience across all elements and stages of education;
- continued strong support for Scotland's education system and philosophy within Scotland, the UK and internationally, which will lead to opportunities for Scotland's young people;
- a high-quality education system for the current and next generation of all learners;
- greater parity of esteem across academic and non-academic qualifications and awards;
- consistent experience for learners across both BGE and Senior Phase; and
- clear, consistent and accessible use of data and evidence to support discussions and decisions on learning, supported by a revised Insight tool, with appropriate data sharing arrangements embedded with the operations of the new organisations.

The indirect impact on children and young people will be:-

- improved clarity and collective understanding of the impact of CfE, and areas for improvement across all stakeholders;
- services will better meet user and societal needs; and
- a more coherent and self-improving system.

3. Which groups of children and young people are currently or will be affected by the relevant proposal?

Under the United Nations Convention on the Rights of the Child (UNCRC), 'children' can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. 'Groups' can also refer to children by age band or setting, or those who are eligible for special protection or assistance: e.g. preschool children, children in hospital, children in rural areas, looked after children, young people who offend, victims of abuse or exploitation, child migrants, or children living in poverty.

All children and young people between the age of 3-18 who attend early years centres, local authority, grant-aided and independent schools and those children who are home educated. Also covered by the Bill will be children and young people educated in settings such as colleges, community learning and development or those receiving education under the auspices of the justice system.

Declaration

4. Is a Stage 2 Children's Rights and Wellbeing Impact Assessment required?

CRWIA required	☒	No explanation required, please complete questions 5 and 6

CRWIA Stage 2 – Assessment of Impact and Compatibility

5. What evidence have you used to inform your assessment? What does it tell you about the impact on children's rights?

In 2020 the Scottish Ministers commissioned a review to be undertaken by the Organisation for Economic Co-operation and Development (OECD), to help better understand how the curriculum is being designed and implemented in schools and early learning and childcare in Scotland, and to identify areas for improvement. This review was subsequently expanded from an initial review of the senior phase curriculum to a full review of the 3-18 Curriculum for Excellence (CfE), covering the broad general education, the senior phase, and the articulation between the two.

The OECD reported in June 2021. The report recognises that Scotland's CfE was among the pioneers of 21st century learning. It set out 12 recommendations and a number of actions that should be taken to strengthen CfE and tackle its ongoing implementation challenges as part of a structured approach to the future of CfE. A particular concern noted in the OECD report was the difficulty in Scottish education in taking account of the views of stakeholders and in particular the voices and perspectives of learners on curriculum reform and recognising those voices in decision making.

The Cabinet Secretary for Education and Skills appointed an independent adviser, Professor Ken Muir, in August 2021 to engage widely with stakeholders and report findings and recommendations to the Scottish Government on the implementation of the OECD's[5] recommendations.

Professor Muir's report was published in March 2022[6], and included recommendations on the governance and functions of a qualifications body and his view that Education Scotland having an inspection function within the same organisation charged with supporting improvement created potential conflicts of interest and compromised the organisation's ability to perform both roles well.

The Scottish Government accepted Muir's recommendations in relation to the qualifications body in full and accepted the recommendation to establish a new inspectorate to be underpinned by legislation in principle[7]. The Education (Scotland) Bill has been developed to set the legislative framework to replace the SQA and remove the inspection function from Education Scotland, thus creating two new organisations.

The Muir review and National Discussion on Education identified a broad appetite for meaningful engagement with stakeholders across the wider education landscape. In advance of the introduction of the Bill, the Scottish Government has undertaken

[5] Scotland's Curriculum for Excellence: Into the Future | en | OECD
[6] Putting Learners at the Centre: Towards a Future Vision for Scottish Education (www.gov.scot)
[7] Putting learners at the centre: response to the independent advisor on education reform's report - gov.scot (www.gov.scot)

extensive consultation both in relation to the Bill[8] and wider Education Reform programme, including with Children and Young People's organisations – the results of this engagement will be laid out over the course of this document. Surveys of the numbers and groups of children and young people who will be affected by this Bill are set out in the Equalities Impact Assessment, published in parallel to this document.

6. Evidence from stakeholders/Policy Colleagues

Professor Muir's work was informed by comprehensive consultation with education system stakeholders. The open consultation held as part of Professor Muir's report received 851 consultation responses, consisting of: 690 responses to the main consultation document or set questions; 74 responses submitted by email which did not follow the consultation questions set; and notes from 87 meetings and webinars (NB evidence specifically from children and young people will be specifically explored in Question 3).

Moreover, through engagement sessions and events with schools, community groups and voluntary sector organisations, over 38,000 people participated in the National Discussion on Scottish Education. An online consultation also complemented this work receiving over 5,600 responses between September and December 2022.

Subsequent engagement by the Scottish Government took place with organisations in March 2023 on the legislative intent of the Bill which involved representatives of both children and young people. General feedback included the importance of governance for rebuilding trust in the system and trust between young people and a new qualifications body.

Following the decision by the Cabinet Secretary for Education and Skills in June 2023 to reschedule the Bill, the Scottish Government conducted a public consultation[9] to inform the development of the proposed Bill between 7 November and 18 December 2023. An Easy Read version[10] and Gaelic translations[11] were produced to ensure full accessibility. The purpose was to seek specific views on the detail of creating a new qualifications body and the approaches to enhance the role inspection plays in improving education, including potentially through legislation. The consultation provided further opportunity to engage on the detail of the proposals, building on the previous substantial engagement and consultation undertaken as part of the OECD report and Professor Muir's report.

In total, 386 consultation responses were received and analysed, consisting of 234 individuals and 152 responses submitted on behalf of organisations. A higher number of people contributed overall as several organisations had conducted wider consultation to develop their response. In addition, nine online consultation events were held which were attended by just under 1,000 people.

[8] Education Reform: A Consultation on the provisions of the Education Bill - Scottish Government consultations - Citizen Space
[9] Education Reform: A Consultation on the provisions of the Education Bill - Scottish Government consultations - Citizen Space
[10] A Consultation on the provisions of the Education Bill - Easy Read (www.gov.scot)
[11] A Consultation on the provisions of the Education Bill - Gaelic version (www.gov.scot)

An independent analysis of the consultation responses was conducted and published alongside these impact assessments[12].

7. Evidence from children and young people

Professor Muir's work was informed by comprehensive consultation with children and young people, which included commissioning Together/Scottish Youth Parliament (SYP)/Children's Parliament to seek their views[13]. This included 1,210 primary school and 394 secondary school aged children engaged with the online or downloadable toolkits, taking part in conversations facilitated by adults known to them; and in addition, 3,889 12- to 18-year-olds responded to an online survey; in a tailored consultation aimed specifically at gathering the views of children and young people. The views of Early Learning and Childcare (ELC) aged children were represented through the representative bodies for the ELC sector. This strong response from Children and Young People focused particularly on children's rights set out in UNCRC and the need for effective representation and involvement, particularly in inspection processes where efforts should be made to ensure that "students who are struggling… don't have their voices heard."

For the National Discussion on Scottish Education, all schools in Scotland were invited to take part using age-appropriate facilitation guides. Online National Discussion assemblies and classes were provided by e-Sgoil for primary and secondary age pupils with over 26,000 children and young people participating in these events.

Children and Young People focused organisations, such as Children in Scotland and SYP, welcomed Professor Muir's recommendations for putting learners at the centre of how decisions are made that affect them. Indeed, placing children and young people at the heart of Scottish education and promoting a vision that all learners matter were key findings of the National Discussion.

During the Scottish Government's engagement with organisations in March 2023, it was stressed that governance should be built from Article 29 of the UNCRC from the outset, ensuring a rights-based approach and co-design process that will be central to gaining trust, alongside transparency and publishing of information. It was recognised that it is important that learner participation does not simply become a sounding board for decisions which have already been taken. In respect of inspection, the organisations highlighted that this needs to feed into governance. They also highlighted that there should be a rounded approach including reporting on wellbeing, equality, mental health and rights, and that young people should contribute to topics inspected and the inspections themselves.

Building on the previous engagement through the aforementioned reviews and the National Discussion, the Scottish Government launched the Education (Scotland) Bill consultation on a series of proposals which focused on the establishment of a new qualifications body and a new inspectorate. Underlying those proposals were the need to improve children and young people's educational outcomes and to address their changing needs by engaging them on the new body and inspectorate.

[12] Education (Scotland) Bill - Consultation Analysis
[13] Consulting with Children and Young People (www.gov.scot)

For this consultation, the Scottish Government engaged specifically with Children and Young People's organisations to ensure maximum engagement. Some partner organisations such as the National Parent Forum for Scotland (NPFS) undertook tailored surveys and focus groups of their membership. The NPFS feedback reported broad agreement on the need for change in Scottish education and highlighted the importance of incorporating the voice of teachers into the new bodies, while opinion was more split on the need for the SQA to be replaced.

Feedback during the consultation from Children and Young People's organisations saw strong calls for far-reaching and holistic reform of the education and skills landscape. Children and Young People's organisations consistently stressed that the new bodies should focus on establishing a participative and responsive approach. This approach should build on but also go beyond the requirements in Articles 12 and 29 of the UNCRC, which respectively require that every child should be given the right to express their views and have those views taken seriously; and that children's education should develop their personalities and abilities as much as possible and encourage them to respect the rights of others and the environment. Specifically with regard to inspection, one of the areas children and young people responded to was in relation to learner engagement with inspection - children and young people were asked to express their view on current experiences, and their aspiration in terms of being heard during inspection. The children who were engaged with were of the view that HM Inspectors cannot have a full and fair view of the school unless they see children/learners as central to the process. There was endorsement of the Independent Review of Qualifications and Assessment that focused on more varied modes of assessment and recognition of wider achievements throughout schooling. The need for additional focus on Additional Support for Learning and ensuring an inclusive education system were also highlighted.

A comprehensive overview of all input from Children and Young People throughout the Education Reform process that is relevant to the Bill was also provided as evidence to support the consultation and has been published alongside all other responses where consent was given.

Analysis of the evidence

8. How have the findings outlined in questions 1-3 influenced the development of the relevant proposal?

Qualifications Scotland

To inform this impact assessment we have undertaken an analysis of feedback from learners, parents and their representative stakeholder bodies that responded to the Muir and Education Bill consultations. This includes the evidence gathering set out in the above sections. Much of the evidence and responses provided by these and other stakeholders focus on operational matters relating to the types and parity of qualifications available to children and young people, how they are assessed, and the way they are communicated and engaged with. For example, opportunities for Qualifications Scotland and its operational decision-making focused on aspects such as parity of esteem across all qualifications and learning programmes, especially between academic and vocational and technical routes, diversity of learner

pathways, reforming courses for qualifications, and better integration of qualifications into the full 3-18 curriculum and assessment system. All of this is intended to improve opportunities and outcomes for all children and young people, through them being able to obtain qualifications in a manner that supports their progression in life.

Given that a significant portion of the feedback for both consultations focused on the operational changes that Qualifications Scotland should establish, the legislative provisions will ensure the organisation is able to create, deliver, assess for and award different types of qualifications which meet the evolving needs of children and young people. Ongoing design work, underpinned by this legislation, will enable Qualifications Scotland to implement improved products and services that better meet the needs and expectations of their stakeholders, and support the implementation of future changes in respect of any reforms to the qualification and assessment system. It will be this improved delivery of qualifications and assessment services that will further support our children and young people by having an organisation that consistently listens to them and delivers in their best interests.

Responses to the Muir report highlighted that 51% of respondents disagreed that there is sufficient trust from all stakeholders, including children, young people, parents and carers, that they could be genuinely involved in decision making. Respondents felt that trust from stakeholders would increase if they could be assured that their input was valued. In particular, clarity and communication about how input informed decisions and how decisions were made were highlighted as important. Many respondents felt that involving learners and their representatives in consultation would increase engagement and trust and ensure this is accessible to stakeholder groups such as pupils.

Similar views on sufficient representation of stakeholder views within the bodies were expressed in the Education (Scotland) Bill consultation. It is this evidence that has informed the development of legislative measures to involve children and young people, alongside other learners and indeed the teaching profession, more effectively in the governance structure of the organisation. It also supports plans for a more transparent processes for engagement and communications with children and young people and how this informs decision making alongside their role in governance structures. For instance, the Bill stipulates that one member of the Board must have relevant experience and knowledge of the interests of young people and other learners. This involvement from a representative of children and young people is expected to help improve the qualifications and awarding services and products that will be offered by Qualifications Scotland, enhancing the learner experience.

New Inspectorate

To inform the assessment, we have undertaken analysis of feedback from learners and parents (including representative stakeholder bodies) who responded to the Muir and Education (Scotland) Bill consultations, as detailed in the above sections. Much of this evidence relates to the detailed operations of the inspectorate, which will not be specified in legislation.

In line with the views expressed by many respondents to the Muir consultation and related engagements, in March 2022, the then Cabinet Secretary for Education and

Skills announced that Education Scotland would be replaced by a new national agency for education and an independent inspectorate.

The Bill consultation included a request for feedback on whether to take forward the new approach to inspection by establishing the inspectorate as a separate executive agency or by establishing an independent officeholder. Whilst there was no clear consensus on this point, among those who supported the appointment of an independent officeholder, many commented that legislation would make accountability and independence more obvious and more stringent which, in turn, could maximise public and professional confidence in the inspection process. We have therefore set out to establish a new officeholder in the Scottish Administration in the Bill: the HM Chief Inspector of Education in Scotland.

A range of statutory functions will be conferred on the HM Chief Inspector. They will lead the Inspectorate of Education in Scotland to take forward the education inspection functions that currently sit within Education Scotland. We have therefore sought to create an independent inspectorate with flexibility in legislation. The Bill seeks to strength the role for the voice of children and young people in how the HM Chief Inspector sets out the inspectorate's operations, including setting the plan for inspections (detailed in Section 6) by requirement for the HM Chief Inspector to establish (and consider the views of) an Advisory Council - in setting its membership, HM Chief Inspector must endeavour to ensure it is representative of those likely to be affected by inspections.

9. Assessing for compatibility against the UNCRC requirements

UNCRC Articles

Please click on the triangle to expand and collapse the text for a full definition of each article.

What impact does/will your relevant proposal have on children's rights (Please tick positive, negative or neutral)

	Positive	Negative	Neutral
Article 1 Definition of the child	☒	☐	☐

For the purposes of the present Convention, a child means every human being below the age of eighteen years.

Article 2 Non-discrimination	☒	☐	☐

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all 15 forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3 Best interests of the child ☒ ☐ ☐

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision

Article 4 Implementation of the Convention ☐ ☐ ☒

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5 Parental guidance and a child's evolving capacities ☒ ☐ ☐

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6 Life, survival and development ☒ ☐ ☐

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child

Article 7 Birth registration, name, nationality, care ☐ ☐ ☒

1. The child shall be registered immediately after birth and shall have the right from birth to a name, and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field

Article 8 Protection and preservation of identity ☐ ☐ ☒

1. States Parties undertake to respect the right of the child to preserve his or her identity, including name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity

Article 9 Separation from parents ☐ ☐ ☒

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Article 10 Family reunification ☐ ☐ ☒

A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents.

Article 11 Abduction and non-return of children ☐ ☐ ☒

States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

Article 12 Respect for the views of the child ☒ ☐ ☐

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law

Article 13 Freedom of expression ☒ ☐ ☐

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of

frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (order public), or of public health or morals.

Article 14 Freedom of thought, belief and religion ☐ ☐ ☒

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others

Article 15 Freedom of association ☐ ☐ ☒

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16 Right to privacy ☐ ☐ ☒

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks

Article 17 Access to information from the media ☐ ☐ ☒

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18 Parental responsibilities and state assistance ☐ ☐ ☒

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible

Article 19 Protection from violence, abuse and neglect ☒ ☐ ☐

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20 Children unable to live with their family ☐ ☐ ☒

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21 Adoption ☐ ☐ ☒

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs

Article 22 Refugee children ☐ ☐ ☒

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organisations or non-governmental organisations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention

Article 23 Children with a disability ☒ ☐ ☐

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24 Health and health services ☐ ☐ ☒

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take 20 appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary healthcare, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic

knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries

Article 25 Review of treatment in care ☐ ☐ ☒

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement

Article 26 Social security ☐ ☐ ☒

1. States Parties shall recognize for every child the right to benefit from social security and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child

Article 27 Adequate standard of living ☐ ☐ ☒

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the making of appropriate arrangements.

Article 28 Right to education ☒ ☐ ☐

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29 Goals of education ☒ ☐ ☐

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty 30 of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State

Article 30 Children from minority or indigenous groups ☒ ☐ ☐

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language

Article 31 Leisure, play and culture ☐ ☐ ☒

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity

Article 32 Child labour ☐ ☐ ☒

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article

Article 33 Drug abuse ☐ ☐ ☒

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34 Sexual exploitation ☐ ☐ ☒

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35 Abduction, sale and trafficking ☐ ☐ ☒

States Parties shall take all appropriate national measures to prevent the abduction of the sale of or traffic in children for any purpose or in any form.

Article 36 Other forms of exploitation ☐ ☐ ☒

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37 Inhumane treatment and detention ☐ ☐ ☒

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action

Article 38 War and armed conflicts ☐ ☐ ☒

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict

Article 39 Recovery from trauma and reintegration ☐ ☐ ☒

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such 5 recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40 Juvenile justice ☒ ☐ ☐

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; 10 probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence

Article 41 Respect for higher national standards ☐ ☐ ☒

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State Party; or

(b) International law in force for that State.

Article 42 Knowledge of rights ☐ ☐ ☒

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

First optional protocol

Positive | Negative | Neutral

Article 4 ☐ ☐ ☒

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

Article 5 ☐ ☐ ☒

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6 ☐ ☐ ☒

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7 ☐ ☐ ☒

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and relevant international organizations.

2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Second Optional Protocol

Article 1 ☐ ☐ ☒

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2 ☐ ☐ ☒

For the purposes of the present Protocol:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(b) Child prostitution means the use of a child in sexual activities for remuneration or any 30 other forms of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3 ☐ ☐ ☒

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) The offering, delivering or accepting, by whatever means, a child for the purpose of:

a. Sexual exploitation of the child;

b. Transfer of organs of the child for profit;

c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of a State Party's national law, the same shall apply to an attempt to commit any of these acts and to complicity or participation in any of these acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, this liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4 ☐ ☐ ☒

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

(a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;

(b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the above-mentioned offences when the alleged offender is present in its

territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. This Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6 ☐ ☐ ☒

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7 ☐ ☐ ☒

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods such as materials, assets and other instrumentalities used to commit or facilitate offences under the present Protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a)(i);

(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8 ☐ ☐ ☒

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed as prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9 ☐ ☐ ☒

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10 ☐ ☐ ☒

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11 ☐ ☐ x

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

(a) The law of a State Party; (b) International law in force for that State.

10. Impact on children and young people

Qualifications Scotland

Learner Charter

Qualifications Scotland will be required to create a Learner Charter that will provide a framework between Qualifications Scotland and its key service users; learners. It will set the expectations of the organisation in relation to delivering and providing services for learners. Qualifications Scotland will be required to involve learners in the co-creation of this Charter by engaging with children, young people, adult learners and their representatives to ensure those it seeks to serve can influence its content. The purpose of the Charter is to increase accountability of Qualifications Scotland to learners to assess its performance from the perspective of learners to ensure it delivers in the interests of its core service users. For the Learner Charter, it will be paramount that the Charter's contents, and how it is developed, is underpinned by Article 12 of the UNCRC to ensure the rights of children and young people to be heard are central to its creation and purpose.

Children, Young People and Learner Engagement

The legislation will seek to ensure that the voices of learners (whom children and young people make up a significant proportion) are more clearly represented within the governance of the organisation. This will include the requirement to establish a committee that can advise on matters of interest to learners, from the perspective of learners themselves. It is expected that this committee's membership will be made up of a diversity of different learners with lived experience of seeking to obtain a Qualifications Scotland qualification, as well as learner specialists and organisations representing learners. Through this position in Qualifications Scotland's governance structure and the envisaged diversity of membership, it will seek to ensure the decisions made by Qualifications Scotland consistently factor in the views of a wide and diverse range of learners and the diversity of different views and needs of children and young people.

Functions

Qualifications Scotland will be established with a clear set of functions enabling it to design and award qualifications, to make arrangements for, or assist in or carry out the assessment of persons undertaking education and training for these qualifications, and to certificate qualifications. It will also have responsibility for quality assuring qualifications offered in Scotland through its accreditation functions,

so that all users of qualifications have confidence and trust in the qualifications they are using. Trust in the integrity of Scottish qualifications ensures sufficient, credible qualification options are available for users of qualifications to choose from and recognise which will enhance better opportunities for children and young people.

The overarching policy objective of the Bill is to establish a new public body that can provide qualifications services that best meet the needs and expectations of young people and all other learners, the education and skills system, economy, industry and other providers who use and recognise qualifications and awards. This will include the types of qualifications offered and their different ability levels, from different work-based learning opportunities, National Qualifications, development awards, training programmes, and the content of courses for those qualifications to give children and young people a breadth of choice to reflect their personal interests. For example, in 2022/23 for the SQA, which Qualifications Scotland will replace, while there were 321,385 National 5 entries, 191,820 Higher entries and 27,745 Advanced Higher entries; 99.3% of these were taken by children and young people under the age of 18. There were also entries across a range of different qualification products, such as customised awards, National Certificates, SQA Scottish Vocational Qualifications and Progression Awards, and Skills for Work.

By developing, awarding and accrediting qualifications, Qualifications Scotland will be able to provide a breadth of different qualifications and awards that meet the diverse and ever-evolving needs of young people, other learners and all those who use and recognise qualifications. Its accreditation functions will also promote excellence, fairness and integrity in Scotland's qualifications market, helping to improve the quality of qualifications, which can support better outcomes for children and young people. Ultimately this will have a positive impact on children and young people taking qualifications by having a fair, robust and transparent body that supports them to fulfil their potential through the acquisition of knowledge and the development of skills so they can succeed and contribute to Scotland's society and economy.

Qualifications Scotland will be responsible for ensuring the places that offer their qualifications are fit for purpose. Qualifications Scotland will approve establishments offering their qualifications, and it will quality assure their practices when delivering their qualifications. Qualifications Scotland will work with education and training establishments (and those delivering learning, teaching and assessment for qualifications within them) to ensure all children and young people are offered qualifications that meet their different wants, needs and abilities.

Additional support for learning

Qualifications Scotland will have responsibility for quality assuring the education and training establishments that seek to offer its qualifications. In quality assuring this, it will have the ability to ensure that the way in which assessment for qualifications is provided is done appropriately and fairly by the education and training establishment. This will ensure that there is sufficient standardisation for all groups of learners, including children and young people, when they are seeking to obtain qualifications. Importantly, this quality assurance process will ensure that centres delivering Qualifications Scotland's qualifications have robust approaches and processes in

place to provide assessment arrangements to learners who need them. For example, ensuring learners with additional support needs (using the definition set out in the Education (Additional Support for Learning) (Scotland) Act 2004) who need them. These provisions will better support children and young people's rights by ensuring the high standards expected around the use of its services can be met to better support a fair awarding system for all types of learners.

In 2023, 37% of children and young people in Scotland's publicly funded schools required additional support for learning[14]. The express requirement for Qualifications Scotland to factor this into its quality assurance processes will ensure that all steps are taken not to disadvantage children and learners with additional support needs when they are being assessed or presented with a qualification provided by Qualifications Scotland.

These functions will support the quality and integrity of its qualifications and assessment services better supporting a fair awarding system for all. For example, it will enable Qualifications Scotland to scrutinise assessment practices in place across centres delivering their qualifications, to better help individuals with additional support needs for learning undertake and achieve qualifications. This will help all learners have equal opportunities to thrive and succeed. This will also support the need expressed in the various consultations and reviews for better parity of access and esteem across different qualifications ensuring that children and young people with different and additional needs are able to take the best learning journey at different stages of their lives.

Looked after children and young people

Ensuring Qualifications Scotland supports improvement in outcomes and attainment for care experienced individuals will be important. Looked after children and young people is also an explicit criterion within the Additional Support for Learning Act 2004. This Act automatically considers all looked after children and young people have additional support needs unless the education authority determine that they do not require additional support in order to benefit from school education. In practical terms this means that education authorities must make arrangements to identify the additional support needs, if any, of every looked after child or young person who is, or is about to be, provided with school education. Qualifications Scotland's activities will align with this Act and will support better outcomes for care experienced children and young people as a result.

Care experienced individuals made up 1.9% of the total school leaver cohort in Scotland in 2021/22. Of these, 78.3% achieved one or more qualification at SCQF level 4 compared with 96.4% of all school leavers[15]. Qualifications Scotland will be a named organisation in section 59 of the Children and Young People (Scotland) Act 2014. As with the SQA currently, this means it will be a named Corporate Parent, which is an organisation or individual who has special responsibilities for looked-after children and care experienced young people. The outcomes of good corporate

[14] Classes and pupils - Summary statistics for schools in Scotland 2023 - gov.scot (www.gov.scot)
[15] Education Outcomes for Looked After Children 2021/22 - gov.scot (www.gov.scot)

parenting can be found in the Scottish Government's statutory guidance[16]. Qualifications Scotland's key corporate parenting responsibilities will include, but will not be limited to, upholding and promoting children's rights; securing positive educational outcomes for looked after children and care leavers; ensuring 'care' is an experience in which children are valued as individuals, and where support addresses their strengths as well as their needs; and increasing the number of care leavers in education, training and employment. Implementation of these responsibilities will also support 'Keeping the Promise' to care experienced children, young people and their families – a commitment that is fundamental to the Scottish Government's ambition that Scotland will be a place where all children are loved, safe and respected so that they can reach their full potential. In the context of education, this means supporting the improvement of educational outcomes of care experienced children and young people.

Gaelic and Scots

The Bill states that in the exercise of its functions, as mentioned in section 6 of this document, Qualifications Scotland must have regard to the needs and interests of those receiving Gaelic learner education, Gaelic medium education or the teaching of Gaelic language in the provision of further education by education authorities.

Qualifications Scotland will also consider the importance of its communications in a way which best meets the needs of users of the Gaelic language, including children and young people. This will ensure that there is alignment with article 30 of the UNCRC so children can learn and use their indigenous language without being disadvantaged.

Home Education

The draft Bill as presented will have a neutral impact on children and young people who are home educated as it will not alter the current process for access to qualifications for a child who is not on a school roll. In this way the introduction of Qualifications Scotland will bring no significant change in process for a parent and young person seeking to access qualifications as part of providing/receiving home education and will not exclude these children and young people from participating from engagement with the body, and the development of the Learner Charter.

Inspectorate of Education in Scotland

The inspection of education provision in Scotland is currently carried out by His Majesty's Inspectors, as part of Education Scotland. The Bill is establishing a new independent officeholder a HM Chief Inspector of Education in Scotland, to lead day to day operations of the education inspectorate (to be known as His Majesty's Inspectorate of Education in Scotland) and set an inspection plan of education provision in the future. It is expected that the Chief Inspector will set out the standards to evaluate and report on quality and improvement (applied to different sectors and services), 'model/s' for how inspections should be carried out, the circumstances of when inspections are to be carried out, and how frequently.

[16] Outcomes from Corporate Parenting - Statutory guidance on Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014 - gov.scot (www.gov.scot)

The Bill also requires the establishment of an Advisory Council, and for HM Chief Inspector to be required to have regards to any advice provided by the Advisory Council in preparing and revising the inspection plan. Where HM Chief Inspector has received advice from the Advisory Council and decides not to act on it, HM Chief Inspector will be required to explain this to the Advisory Council. It is expected that learners will be represented on this Council, thus strengthening the voice of children and young people, upholding Professor Muir's recommendation that children and young people should always be at the forefront of inspection design and outcomes.

Further, the Bill places several reporting requirements on HM Chief Inspector, which are expected to have further positive impact on children and young people, including an explicit duty for the Chief Inspector to publish individual establishment / service inspection reports and that the Chief Inspector be required to report annually on the 'Performance of Scottish education', helping to monitor performance in the education system at a national level. As such, the Bill will have a positive impact on improving learners' choice of progression across stages and sectors.

As is current practice, all children and young people attending education provision (from early learning and childcare to adult learning) in Scotland, will be impacted over time by the carrying out of the inspection of their establishment, and the use of evidence captured by the inspectorate to secure improvements for all learners. We do not anticipate different impacts for different groups of children and young people – the independent inspectorate will inspect all provision at different intervals, at differing degrees for different purposes, to be considered by HM Chief Inspector. As HM Chief Inspector is required to have regard to the views of the Advisory Council, provisions are expected to have a positive impact.

Additionally, when publishing documents, the HM Chief Inspector is to have regard to the importance of communicating in a way that best meets the needs of children and young people, and users of the Gaelic language.

11. Negative Impact/Incompatibility

No negative impacts have been identified as a result of the proposed provisions within the Education (Scotland) Bill to establish either Qualifications Scotland or HM Inspectorate of Education in Scotland. This is because both organisations will be undertaking functions that are currently the responsibility of the Scottish Qualifications Authority and Education Scotland respectively. As operationally independent organisations, the impacts of any operational decisions made by Qualifications Scotland and HM Inspectorate of Education in Scotland should be assessed by the bodies themselves. It is important to recognise that there would be different impacts for different people as result of operational decisions on qualifications, assessment and inspection. There are no potential concerns about compatibility with the UNCRC requirements.

The development of the policy to establish Qualifications Scotland and the independent inspectorate has at its core the objective of putting learners at the centre with the impact on children and young people at the forefront of our consideration. At this stage, no negative impact or incompatibility with the UNCRC articles of the provisions to be included in the Education (Scotland) Bill have been

identified. This will be kept under review during the passage of the Bill through the Scottish Parliament.

12. Positive impact: Giving better or further effect to children's rights in Scotland

The objectives of the Bill are to provide the legal underpinning to support the design and delivery of a national organisational infrastructure for education in Scotland that more effectively supports the system, to deliver the vision for education in Scotland. It is part of a broader programme which will support desirable revisions to and simplifying where possible, the articulation of the 3-18 Curriculum for Excellence, so that it is as widely shared and understood as possible; and have in place a system which supports a coherent learner journey, within which curriculum and assessment are aligned at all levels.

The outcomes to be achieved by the Bill are intended to have a positive impact on children and young people by providing:

- improved understanding and support of CfE amongst parents and carers;
- opportunities for all learners that are appropriate for their achievement potential;
- increased inclusion, reduced inequality and reduced variation in attainment;
- increased influence for children and young people in the decisions that affect their education;
- consistent experience across all elements and stages of education;
- continued strong support for Scotland's education system and philosophy within Scotland, the UK and internationally, which will lead to opportunities for Scotland's young people;
- a high-quality education system for the current and next generation of all learners;
- greater parity of esteem across qualifications and awards;
- consistent experience for learners across both Broad General Education and Senior Phase delivered in secondary school and other educational settings;
- clear, consistent and accessible use of data and evidence to support discussions and decisions on learning, supported by a revised Insight tool, with appropriate data sharing arrangements embedded with the operations of the new organisations:
- improve clarity and collective understanding of the impact of CfE, and areas for improvement across all stakeholders;
- deliver services that will better meet user and societal needs;
- provide a more coherent and self-improving system; and
- ensure Gaelic Medium Education is represented and catered for.

Qualifications Scotland

The role of Qualifications Scotland will be to design, assess for, award and accredit different types of qualifications to meet the needs of learners, their aspirations and support their lifelong learning journey. The attainment of qualifications can support children and young people's progression into further and higher education, the

workplace, enhance their life skills, as well as supporting their mental health and wellbeing through the recognition of achievement and success. The establishment of Qualifications Scotland seeks to ensure Articles 28, 29 and 30 of the UNCRC are supported, whilst also creating robust opportunities for children and young people to have their views and voices heard under Article 12. The Scottish Government believes that the establishment of Qualifications Scotland with new mechanisms which will significantly strengthen the involvement of learners and stakeholders, is in the best interests of children and young people. We do not anticipate any negative impacts on their rights and wellbeing.

Inspectorate of Education in Scotland

The role of inspection is vital in Scottish education. Inspections aim to improve the quality of experience and outcomes for children, young people and adult learners. Gathering the views of children and young people is an important aspect in the carrying out of inspection, predominantly by supporting learner participation through its inspection practices - Article 28 and Article 29 underpin this work. Given the aims of education reform and the consultations carried out by Professor Ken Muir and later the Scottish Government, the Scottish Government believes that the establishment of a new independent inspectorate is in the best interests of children and young people.

13. Impact on Wellbeing: does or will the relevant proposal contribute to the wellbeing of children and young people in Scotland?

Please tick all of the wellbeing indicators that are relevant to your proposal.

Wellbeing Indicator: Will there be an improvement in wellbeing in relation to this indicator? **Yes/no.**

Safe - Growing up in an environment where a child or young person feels secure, nurtured, listened to and enabled to develop to their full potential. This includes freedom from abuse or neglect. **Yes.**

Healthy – Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices. **Yes.**

Achieving – Being supported and guided in learning and in the development of skills, confidence and self-esteem at home, in school and in the community. **Yes.**

Nurtured - Growing, developing and being cared for in an environment which provides the physical and emotional security, compassion and warmth necessary for healthy growth and to develop resilience and a positive identity. **Yes.**

Active - Having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community. **Yes.**

Respected - Being involved in and having their voices heard in decisions that affect their life, with support where appropriate. **Yes.**

Responsible - Having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision. **Yes.**

Included - Having help to overcome inequalities and being accepted as part of their family, school and community. **Yes.**

Post Assessment Review and sign-off

14. Communicating impact to children and young people

Qualifications Scotland and Inspectorate of Education in Scotland

Through engagement and partnership with our children and young people stakeholder organisations we will keep children and young people informed of the impact of Qualifications Scotland, His Majesty's Inspectorate of Education and related policies. The Muir report, and the recommendations that informed this policy, were communicated to children and young people via an accessible version developed in partnership by Children's Parliament, Scottish Youth Parliament and Together[17]. An Easy Read version[18] of the Education (Scotland) Bill consultation was also produced.

It should be noted that this impact assessment relates to the legislative provisions of the establishment of Qualifications Scotland and HM Chief Inspector of Education in Scotland, and not the operational policies. We will seek to work with CRWIA partners to publish a child and young person friendly accessible CRWIA once the Bill has passed through Parliament.

15. Planning for the review of impact on child rights (Stage 3)

A post-implementation review of the newly established Qualifications Scotland and HM Chief Inspector of Education in Scotland will be conducted once they have been operational for a period of time, yet to be determined. A review of this impact assessment will also be completed alongside this.

It will be for Qualifications Scotland and HM Chief Inspector of Education in Scotland to conduct their own reviews on the impacts of the policies they develop and implement in relation to children's rights. It will be for Scottish Ministers and the Scottish Parliament to scrutinise the performance of the new bodies in relation to how they have delivered their functions, and therefore how the delivery of these functions has impacted on children's rights.

16. Compatibility sign off statement

This relevant proposal has been assessed against the UNCRC requirements and has been found to be compatible.

Deputy Director Signature & Date of Sign Off: Lisa Bird 17/04/24

[17] Putting Learnes at the Centre – Summary Version
[18] A Consultation on the provisions of the Education Bill – Easy Read

SGLD Sign Off: Yes ☒ No ☐

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Any enquiries regarding this publication should be sent to us at

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