

## **Children's Rights: Consultation on incorporating the UNCRC into our domestic law in Scotland**

**Iceland Study Trip – Scottish Government and UNICEF Scotland – 18- 20 June 2019**

### **Scotland Attendees:**

Chris Birt - policy adviser to the First Minister  
Helen Fogarty – Children's Rights Unit Head  
Liz Blair – SGLD  
Lucinda Rivers, UNICEF Scotland  
Alexandra Devoy – UNCRC Incorporation Team Leader

### **Met with:**

Ásmundur Einar Daðason, Minister for Social Affairs and Children  
Salvör Nordal, Ombudsman for Children  
Hrefna Friðriksdóttir, Child Rights Specialist, lecturer, law faculty at the University of Iceland  
Margrét Steinarsdóttir, Icelandic Human Rights Centre  
Erna Kristín Blöndal, DG Ministry of Social Affairs  
Bragi Guðbrandsson, member of the UNCRC  
Ms.Nilla Larsen, Child Rights Specialist at UNICEF Iceland  
Jakob Sindri Þórsson, Kópavogur Municipality  
Páll Magnússon, Kópavogur Municipality  
Jökull Ingi Þorvaldsson, member of the UNICEF youth council  
Elínborg Einarsdóttir, Reykjavik Youth Council  
Una Hildardóttir, The Icelandic Youth Council

*[the views described in this document are the opinions and discussion of those individuals the group met and as such are not statements of fact]*

### **Iceland Context**

- Iceland constitution ratified in 1944
- UNCRC incorporated into Icelandic law 2013 – not in constitution
- Iceland population of approx. 360,000
- Two tier government national and local
- There are 72 local authorities
- Dualist approach- constitutional law and refer to international treaties

### **Legislation for Children in Iceland**

- Two separate pieces of legislation: Children Act 2003; and Child Protection Act 2002.
- And the installing of an Ombudsman for Children: The Ombudsman for Children Act 1994

*Meeting with Children's Ombudsman and Hrefna Friðriksdóttir*

**UNCRC in Iceland**

- Full incorporation bringing about transformative dynamic realisation of rights, political backing, visibility and inclusivity, going further on implementation where possible
- UNCRC is considered 'ordinary law' (not in constitution)
- Difficult to give CRC direct effect in courts (not in constitution to do so), and limited/ no case law to refer to – refer to international law
- Use reference to other national/ international Human Rights practice and make use of General Comments as interpretative tools (although piecemeal)
- Courts slow on uptake to date – feels piecemeal and conservative
- Looking at strategic litigation to build up case law practice e.g. where rights come together (economic and child; social and economic etc.) and evidence disparity of access e.g. Romany travellers
- Other supporting conditions needs consideration too including child specific law centres; rights training for public authority professionals
- Difficulties at local and public authority level on impact assessments and compliance on consistency of approach, coordination, and best practice sharing (Minister for Social Affairs and Children active in this area)

*Learning point:* to assist with interpretation, make use of what is available to provide clarity: case law, international case law, development of strategic litigation, use of General Comments, use of Bill supporting documents e.g. policy memorandum.

*Learning point:* legal framework needs to be considered – CRC is not in constitution so it's slow to implement; lack of consistency of approach; lack of case law and conservative approach of judiciary;

**Public awareness and participation**

- Have had Children's Ombudsman in place since 1994
- However, public professionals e.g. teachers, police, health professionals are not routinely taught about CRC; so understanding and implementation is piecemeal
- Therefore students and public not taught routinely through these channels - results in low understanding and implementation
- The Ombudsman was given a range of new statutory duties after incorporation, with the emphasis primarily on enabling the participation of children and young people.
- Ombudsman convenes annual Children's Forum (500 attending: students and reps); output sent to Minister for Social Affairs and Children
- Ombudsman also convenes monthly Children's Board where new work is discussed – children are invited to apply for this Board
- Lack of debating culture (due to close-knit communities and fear of offence); Board and Forum coach debating and participation

*Learning Point:* supporting your public authorities from the start to enable smooth and consistent implementation; or make use of a sunrise clause to enable public authorities to prepare for implementation

*Learning Point:* The participation of children and young people has been the key area where the impact of incorporation is most visible

*Meetings with Minister for Social Affairs and Children, Erna Kristín Blöndal, Bragi Guðbrandsson, Margrét Steinarsdóttir*

### **Policy**

- Moving toward prevention and early intervention model with joined up policy from across Government, very interested in Getting It Right For Every Child
- Researching what positive outcomes and indicators look like – evidence based for policy and budget discussions (removing perception of ‘soft policy’)
- Consistency in children’s experiences is challenging. Two tier Government provides decentralisation; however this requires better implementation by central Government- working on coordinating this and generating best practice to create a ‘common service programme’
- Using Art 12, participation and children’s views- was founding key of Barnahus e.g. abused child making a statement once for all agencies. Incorporation supported the further development of Barnahus approach
- Incorporation also had immediate positive effect on children’s wellbeing: no unconditional sentencing for children since inception
- Further Barnahus encompasses CRC: child is at centre of services and support

*Learning Point:* stating a clear political and cultural commitment, joining up across Government to ensure policy interfaces are smooth, ensuring there is an evidence base for decision making- and defending programmes, sharing best practice in sector and supporting service consistency.

*Meeting with: Jakob Sindri Þórsson, Páll Magnússon*

### **Implementation and data**

- Rights respecting school status gaining momentum across Iceland
- Provision of youth centres/ clubs run at local authority level supports discussions and improves understanding of children’s rights for both children and parents (only 1 religious school in Iceland)
- Iceland specific data groups required in line with western society children’s wellbeing. Gaps are on mental health, security and protection, communal participation, amongst others
- Developing a dashboard of measurements (read-across to SG Action Plan and RCS work)
- Builds on World Council City Data (ISO37120):  
<https://www.dataforcities.org/wccd/>

*Learning Point:* rights respecting schools promote CRC literacy and understanding amongst children, know how to uphold rights, supported by politicians listening. The gap in understanding and implementation is at service provision and judiciary level

*Learning Point:* ensuring the right and appropriate measurements are in place to provide evidence to support decision making

*Meeting with Jökull Ingi Þorvaldsson, Elínborg Einarsdóttir, Una Hildardóttir*

### **Participation**

- Youth Council - started 2015, 6 individuals on Board. Represents multiple agencies and voices (of which UNICEF is one)
- Creates own projects and campaigns e.g. mental health, refugee children, climate change)
- Youth Council does a regular parliament take over- decision making capacity and time with government agencies
- Shadow parliamentary elections take place- getting young people involved in politics and improving understanding of rights
- Difficulty with diversity and membership- elected to membership
- Does not own budget/ is not financially accountable- budget sits with parent agency
- Struggles with wider public authorities to be taken seriously e.g. police
- Campaigning for 16 YO for voting rights (currently 18)

*Learning point:* ensure children and young people participate as early as possible in the development of legislation to endow empowerment

*Learning Point:* support youth groups with their relationships with public authorities to ensure they are heard and their views reflected on.