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for every child

# Progressing the Human Rights of Children in Scotland:

## An Action Plan 2021 – 2024



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# How Children and Young People have shaped Scotland's approach

The Scottish Government is committed to making Scotland the best place to grow up. Children and young people have been increasingly involved in shaping our ambitions around children's rights for over a decade and we are very grateful for the insight and influence they have brought to bear. Examples include:

## 2009 – 2013

- **2009:** Publication of '[Do the Right Thing](#)' the Scottish Government's direct response to the UN Committee's 2008 Concluding Observations was informed by consultation activity with children and young people; followed in **2012** by an update to '[Do the Right Thing](#)' which responded to Together's [2011 State of Children's Rights report](#).

## 2014 – 2017

- **2014:** Children and Young People (Scotland) Act 2014 (2014 Act) duty on Ministers to develop actions, listen to children and promote public awareness and understanding of children's rights – **a response to calls from children and young people that more should be done to raise awareness of the UNCRC. In 2015**, the UN Committee on the Rights of the Child's Vice Chair visited Scotland **to hear directly from children and young people**. Members of the Scottish Youth Parliament (SYP) later travelled to Geneva to **give evidence to the UN Committee** at its pre-sessional meeting, specifically calling for a plan from Scottish Government to set out how children and young people could be involved in the development of policy. In **2017**, members of the Scottish Youth Parliament and Children's Parliament had their first **annual meeting with the Scottish Cabinet** to highlight a range of rights issues, including the need for UNCRC to be further reflected in Scots law.

## 2018 – 2021

- **2018:** SYP Rights Review Event – **MSYPs presented the views** of their constituents to the Cabinet Secretaries, Scottish Ministers and Scottish Government officials. The Children's Parliament organised **5 workshops to enable younger children to have their voices heard**. The [Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021](#), which was published in December 2018, directly responded to children's calls for an Action Plan for taking forward children's rights. **In 2019:** A public [consultation](#) took place on the model of incorporation of UNCRC into Scots law to deliver the best outcomes for children, young people and their families. **Engagement events, including with children and young people, informed the approach taken and consultation process.** Children and young people were clear about what incorporation should look like. **In 2020**, The United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Bill (UNCRC Bill) was introduced on 1 September 2020 and unanimously passed by the Scottish Parliament on 16 March 2021, signalling a revolution in children's rights in Scotland. On 12 April 2021, a reference of certain provisions of the Bill was made by UK Law Officers to the UK Supreme Court and a hearing before the UK Supreme Court took place on 28 and 29 June 2021. In October 2021, the Supreme Court ruled that certain parts of the Bill fell out with the competence of the Scottish Parliament. The Scottish Government is urgently and carefully considering the implications of the Supreme Court judgment and how best to take that work forward. The Scottish Government remain committed to the incorporation of the UNCRC to the maximum extent possible as soon as practicable, and the majority of work in relation to implementation of the UNCRC can, and is, continuing.

The Scottish Government is grateful to all of the children and young people and representative organisations who have guided and supported our efforts over the past decade to help ensure that children and young people across Scotland, particularly those who are vulnerable, can better experience their rights.

## How Children and Young People have shaped the 2021 Action Plan

The strategic actions included in the 2021 Action Plan reflect the views expressed by children and young people during the 2019 consultation in relation to the UNCRC Bill. The Scottish Government also sought views on the strategic actions included in the 2021 Action Plan from the Children and Young People's Interim Consortium.

The Interim Consortium was established in September 2021 to support the meaningful, inclusive, and ongoing participation of children and young people in the UNCRC Strategic Implementation Board and wider implementation programme. It is made up of 6 organisations – Aberlour, Carers Trust Scotland, Children in Scotland, Scottish Commission for Learning Disability, Scottish Youth Parliament, Who Cares? Scotland – and is co-ordinated by Together – Scottish Alliance for Children's Rights.

The children and young people in the Interim Consortium discussed priorities across the proposed four strategic actions in the Action Plan. Based on what they said, key principles have been identified. These principles need to underpin the four strategic actions and considered at every stage of activity. This will support children's need to be:

- **Respected** – a culture shift is required to ensure that children and young people are being respected and that their rights are protected in all aspects of their life.
- **Informed** – children need to know about things that are happening to them in their lives.
- **Listened to** – their views need to be taken seriously and actioned.
- **Included** – we need to ensure that those children most at risk of having their rights breached are included in all decision making relating to children's rights.
- **Supported** – adults need to receive training and awareness about children's rights to ensure that children's rights are being respected, protected and fulfilled.
- **Protected** – children need to feel that adults are actively protecting and upholding their rights across all of society and this must go beyond public authorities.

The Scottish Government will continue to engage with the Interim Consortium and with wider groups on children and young people, including those who are seldom heard, in taking forward this Action Plan and specific policy initiatives.

## Progressing the Human Rights of Children in Scotland: An Action Plan 2021-2024

### Our Vision

A Scotland where children’s rights are respected, protected and fulfilled

### Our Aims:

- To incorporate the United Nations Convention on the Rights of the Child (UNCRC) to the maximum extent possible as soon as practicable.
- To enable all children in Scotland to be aware of and understand their rights.
- To ensure all children in Scotland experience public services consistently upholding their rights.
- To bring about a fundamental shift in culture in Scottish society which will deliver a revolution in children’s rights.

### Context

- In line with the duties placed on Scottish Ministers in relation to children’s rights under Part 1 of the Children and Young People (Scotland) Act 2014, the 2021 Report and Action Plan combine to provide detailed information on progress made to further children’s rights since the last Action Plan was published in 2018, and sets out the ambitious plans to give better and further effect to the UNCRC over the next 3 years.
- In the summer of 2019 the Scottish Government consulted on incorporating the United Nations Convention on the Rights of the Child into domestic law in Scotland. 162 responses were received including 13 responses from organisations which specifically represented the views of children and young people. Views were collected by these organisations during consultation events, young people’s forums and workshops. The UNCRC (Incorporation) (Scotland) Bill (the “Bill”) was introduced to Parliament on 1 September 2020 along with the Policy Memorandum and Financial Memorandum which set out the high level plan for a three year implementation programme covering three strands, which have been further developed into four strands in partnership with stakeholders, and are now set out below.
- On 16 March 2021, the Scottish Parliament unanimously passed the UNCRC (Incorporation) (Scotland) Bill to incorporate the UN Convention on the Rights of the Child into Scots law to the maximum extent possible, signalling a revolution in children’s rights in Scotland. On 12 April 2021, a reference of certain provisions of the Bill was made by the Attorney General and the Advocate General for Scotland to the UK Supreme Court. A hearing before the UK Supreme Court took place on 28 and 29 June 2021.
- In July 2021 the UNCRC Strategic Implementation Board was convened to provide strategic vision and oversight of a comprehensive and joined up 3 year programme to implement the UNCRC so that children’s rights are respected, protected and fulfilled in Scotland. The Board developed and agreed the vision and aims set out in this action plan.
- In October 2021, the Supreme Court ruled that certain parts of the Bill fell outwith the competence of the Scottish Parliament. The Scottish Government is committed to protecting the rights of children and young people and remains committed to the incorporation of the UNCRC to the maximum extent possible, as soon as practicable. We are urgently and carefully considering the implications of the judgment and how best to take that work forward. However, the majority of work in relation to implementation of the UNCRC can, and is, continuing.
- This Action Plan takes account of the findings of the consultation in 2019, and subsequent stakeholder engagement, and focusses on the Strategic Actions that we will take forward with partners in our 3 year implementation programme, to ensure that children’s human rights are better protected, respected and fulfilled throughout Scotland.

### Content

A list of current priorities being taken forward within the four strands of the Scottish Government’s UNCRC Implementation Programme to respect, protect and fulfil children’s rights.

Further details on the Children’s Rights Scheme

## Our Vision

A Scotland where children's rights are respected, protected and fulfilled

## Governance

UNCRC Strategic Implementation Board

Children and Young People's Consortium

### SCOTTISH GOVERNMENT LEADERSHIP FOR CHILDREN'S RIGHTS

We will ensure that the Scottish Government is a leader for children's rights and a role model to others in upholding children's rights, as well as ensuring all Scottish Government policy and legislation is UNCRC compliant by:

- Remaining committed to the incorporation of the UNCRC into domestic law to the maximum extent possible as soon as practicable.
- Developing and delivering a strategic plan for raising awareness and training on the UNCRC and children's rights across the Scottish Government and its agencies.
- Promoting the importance and adoption of Child Rights and Wellbeing Impact Assessments (CRWIAs) and continuing work to improve CRWIA training and develop an impact evaluation process.
- Consulting on, and publishing, a Children's Rights Scheme which will set out how Scottish Government will give better and further effect to the rights of children (further details in Annex A).

### EMPOWERING CHILDREN AND YOUNG PEOPLE TO CLAIM THEIR RIGHTS

We will create and amplify systems that enable children and young people to be empowered human rights defenders. We will drive forward a rights-based approach to participation, ensuring we listen, consider, and respond to representative voices of children and young people, and particularly those who are seldom heard by:

- Co-creating a national awareness raising campaign for children's rights with children and families, to ensure that children, young people, their families and all of Scottish society are aware of and understand the UNCRC, and to support them to be rights defenders.
- Producing a wide range of information and guidance resources aimed at raising public awareness to increase individuals' understanding of children's rights.
- Establishing a consortium of organisations to support a sustainable, meaningful and inclusive approach to participation of children and young people in decision-making.

### Progressing the Human Rights of Children in Scotland: An Action Plan 2021 – 2024

### EMBEDDING CHILDREN'S RIGHTS IN PUBLIC SERVICES

We will ensure that there is a proactive culture of everyday accountability for children's rights across public services in Scotland by:

- Producing guidance for public authorities, and those undertaking functions of a public nature, to implement the UNCRC.
- Developing a Children's Rights Skills and Knowledge Framework to support capacity building in public services in taking a child's rights approach in practice to drive forward the culture change required.
- Developing a National Improvement Programme, which will include an approach to self-evaluation, and the creation of an Innovation Fund to provide financial support for testing and implementing creative approaches to embedding children's rights.

### CHILDREN'S RIGHTS RESOLUTION

We will provide targeted support in a number of areas which, when progressed, will significantly improve the way that children and young people access and experience their rights, by:

- Working with the Scottish Public Services Ombudsman to develop a child-friendly complaints process to ensure children and young people are able to access their rights.
- Working across Scottish Government and with stakeholders to review existing advocacy arrangements to support children and young people in accessing their rights, and to consider how we can strengthen the provision of advocacy to children and young people who need it.
- Developing an Evaluation and Monitoring Framework to monitor and evaluate the delivery, aims and impact of the UNCRC Implementation Programme, whilst simultaneously linking progress in embedding children's rights to long-term outcomes for children and young people.

### How will we know we are making progress?

The UNCRC Strategic Implementation Board will monitor progress and we will provide an update on these strategic actions each year.

# Annex A

## FURTHER DETAILS ON THE CHILDREN'S RIGHTS SCHEME

### Background

The Scottish Ministers intend to publish a scheme setting out the arrangements that are in place, or will be put in place, to ensure that they do not act incompatibly with the UNCRC requirements, and to secure better or further effect of the rights of children. This will be known as the 'Children's Rights Scheme'. As such, this annex summarises the arrangements the Scottish Government already has, or plans to undertake, as part of the Children's Rights Scheme, which are as follows:

#### **1. Ensure that children are able to participate in the making of decisions that affect them, with access to such support and representation (for example from children's advocacy services) as they require to do so.**

The Empowering Children and Young People Who Can Claim Their Rights strand is establishing a consortium of organisations to support a sustainable, meaningful and inclusive approach to participation of children and young people in decision making.

#### **2. Identify and address any situation where a child's rights are (or are at a significant risk of) not being fulfilled**

The Children's Rights Resolution strand will proactively work with colleagues across the Scottish Government on specific issues where more can be done for children's rights. We intend to strategically target those issues where we can go further to respect, protect and fulfil children's rights. We will work with Scottish Government colleagues and stakeholders on what additional resources are required in these targeted areas to ensure that children's rights are upheld. These issues will be identified through a variety of means such as:

- Engagement with children and young people through the consortium of organisations, Executive Team and Cabinet Takeover events;
- UN Committee on the Rights of the Child concluding observations, general comments, days of general discussion and procedures under the third protocol;
- Together's State of Children's Rights report; and
- Feedback from stakeholders such as the Scottish Public Service Ombudsman, Children and Young People's Commissioner Scotland and Scottish Human Rights Commission on children's rights breaches and complaints from, or about, children where their rights were impacted.

#### **3. Raise awareness of and promote the rights of children**

We want all children in Scotland to know their rights, but it is clear that for many groups of children and young people, awareness and understanding is lower than it should be. To ensure that children, young people, their families and all Scottish society are aware of and understand the UNCRC, and to support them to be rights defenders, the Empowering Children and Young People Who Can Claim Their Rights strand will co-create a national awareness raising campaign for children's rights. We will also produce a wide range of information and guidance resources aimed at raising public awareness to increase individuals' understanding of children's rights.

We will explore the development of a Children's Rights Skills and Knowledge Framework to build capacity in public authorities. Learning from the Trauma Informed approach to upskilling workforces, the aim for this work is to implement a coherent and national offer for all public authorities to upskill themselves in taking a child's rights based approach to their practice/ service, to further enable them to act compatibly with the UNCRC, and to give further realisation to the rights of children and young people in Scotland. Given the breadth of sectors, workforces and responsibilities with regards to children's rights, a Children's Rights Skills and Knowledge Framework would establish a tiered-approach to capacity building, whereby practitioners are able to assess the level of knowledge they require for their role, and tools and content would be tailored accordingly. The Framework will continuously evolve to include new topics, updated examples of practice and refreshed materials and content.

We are developing a Children's Rights Innovation Fund that would provide financial support for innovative approaches to embedding children's rights in Scottish Society at a local level under a broader National Improvement Programme. The value of the Fund is currently being scoped. As well as creating a way for local practice to improve and innovate, the Children's Rights Innovation Fund will enable a community of practice of children's rights practitioners and champions to share good practice, and contribute to a national directorate of resources, case studies and support. The Innovation Fund will be available to public and third sector organisations.

#### **4. Promote complaints handling procedures that children can understand and use**

Incorporating the UNCRC will allow children and young people and their representatives, in future, to go to court to access their rights. However, we would want to avoid the need for that as far as possible to allow for issues to be resolved at local level. To allow this to happen, complaints procedures must be rights-based, accessible to children and young people, easily understood and supported.

We will support the Scottish Public Service Ombudsman, who has a statutory function in relation to complaints handling for most public bodies, to develop and implement child-friendly complaints approaches across public services in Scotland. These procedures will ensure children and young people can access complaints processes and that processes are centred around the needs of the child when a complaint is made on their behalf, or concerning them. This will include providing guidance, support and training to public bodies in developing and delivering child friendly complaints processes, as well as providing support for children and young people themselves, and those who support children and young people, in particular parents, guardians, third-sector organisations and advocates. In this way, children and young people will be better supported to access their rights.

#### **5. Ensure that children have effective access to justice**

In addition to targeted work to address issues where the Scottish Government can go further to uphold children's rights in Scotland and working with Scottish Public Service Ombudsman to promote and support child friendly complaints processes, we will work in partnership with stakeholders to identify and progress other areas which we know can currently hinder effective access to justice.

The Scottish Government has introduced an advocacy scheme within children's hearings and this is being extended to support siblings who also now have rights to participate in children's hearings from 25 July 2021. The Children (Scotland) Act 2020, when fully implemented, will improve how the voice of the child is heard in family cases. We will work with colleagues and stakeholders to further consider the provision of advocacy to children and young people who need it, support children in accessing their rights and the provision of child-friendly procedures.

The Scottish Government has consulted on the age of referral to children's hearings and there is clear support for change which provides further protection to 16 and 17 year olds in accessing their rights balanced with the rights of others. The Programme for Government commitment to a Care and Justice Bill will ensure that all under 18 year olds have their needs met through the Children's Hearings System if appropriate, allow for associated enhancements to that system, support changes in secure care and increase support for victims. The Scottish Government published a new Vision for children and young people in conflict with the law in June 2021. The Vision is rights-respecting and includes priorities around upholding the rights of all children, supporting them to actively participate and engage in decisions which affect them and that children are diverted away from the Criminal Justice System to appropriate alternative supports through the continued delivery of the Whole System Approach to preventing offending by young people.

## **6. Protect the rights of children in relation to their interactions with persons, other than public authorities, who provide services which affect children**

The aims of the UNCRC Implementation Programme were broadened to include bringing about a fundamental shift in culture in Scottish society which will deliver a revolution in children's rights, not just in public services. We have included service providers in the independent and third sectors in the governance of the UNCRC implementation programme, including as members of the Strategic Implementation Board. We will continue to promote the importance and adoption of Child Rights and Wellbeing Impact Assessments (CRWIAs) amongst bodies other than public authorities, as well as continuing work to improve CRWIA training and

develop an impact evaluation process. As part of the Children's Rights Resolution strand, we will consider where children's rights can be strengthened in services, both delivered by public authorities and by others.

## **7. Consider the rights of children in the Scottish Government's budget process**

The Scottish Government, with the Scottish Parliament, have well established Budget setting and scrutiny arrangements that aim to ensure that decisions about revenue and capital expenditure and income are informed by both Ministers' statutory responsibilities and key delivery priorities and outcomes. The Scottish Government publishes an Equality and Fairer Scotland Budget Statement each year alongside its draft Budget for the year ahead. This document examines the impact of budgetary decisions across protected characteristics. The introduction of the CRWIA further ensures that policy officials within Government take account of the rights, wellbeing and views of children and young people in considering relevant policies and significant investment decisions.

We will continue to explore, across the Scottish Government and with stakeholders, the potential to spread more participatory budgeting practice and wellbeing and child rights-based approaches to budgeting to advance and secure children's rights in the budget process. This will include reviewing the lessons learned from case studies produced by UNICEF and the World Bank to help governments to introduce, or improve, the measurement, monitoring and reporting of public spending for children.

## **8. Ensure that Scottish Government actions contribute to any national outcome for children determined by them under Part 1 of the Community Empowerment (Scotland) Act 2015**

It is critical that we are able to monitor and evaluate the delivery, aims and impact of the UNCRC Implementation Programme, whilst simultaneously linking progress in embedding children's rights to long term outcomes for children and young people. We are scoping the development of an Evaluation and Monitoring Framework to link action to impact, utilise existing data, and allow us to identify gaps in data which can then be addressed. The Framework will allow us to assess whether or not children's rights are protected, respected and fulfilled in Scotland.

## **9. Prepare and publish child rights and wellbeing impact assessments**

The non-statutory Child Rights and Wellbeing Impact Assessment (CRWIA), which was introduced in 2015, seeks to ensure that all areas of the Scottish Government consider the possible direct and indirect impacts of proposed policies and legislation on the rights and wellbeing of children and young people. The views of children and young people are integral to the CRWIA process. [Links](#) to published CRWIAs prepared by the Scottish Government are, and will continue to be, made available on the Scottish Government's website.

The CRWIA is currently promoted across the Scottish Government as a key tool in the development of policy and is assisting officials, and other relevant organisations who choose to use this resource, to take a rights-based approach to the development of policies and services.

As part of the priorities under the Progressing the Human Rights of Children in Scotland Action Plan 2018-2021, we undertook a review of the CRWIA. This review has taken into consideration feedback from a range of internal and external stakeholders. As a result of this review, new templates and updated guidance have been published on the Scottish Government website here for anyone to use. We will continue to gather feedback from anyone using the templates and guidance to ensure it is continuously improved. Work to improve the CRWIA training and to develop an impact evaluation process for the CRWIA also continues. We will continue to encourage others to use the CRWIA as a way to implement children's rights in their work.

## **10. Use, and promote the use of, inclusive ways of communicating that ensure that children are able to receive information and express themselves in ways that best meet their needs (in relation to speech, language or otherwise)**

The consortium of organisations to support a sustainable, meaningful and inclusive approach to participation of children and young people in decision making will help ensure the promotion and use of inclusive communication with children on the UNCRC Implementation Programme.

We will also produce child-friendly and accessible versions of guidance, rights reporting publications and other resources to ensure children and young people can receive information about their rights, and the duties on Ministers and public authorities in relation to their rights. This will include booklets, session plans, animated videos and other such mediums as requested by children and young people. We will also ensure information is communicated to children and young people from sources they trust, such as schools, and utilising the relationships they hold, such as parents and other trusted adults.



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The Scottish Government  
St Andrew's House  
Edinburgh  
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ISBN: 978-1-80201-594-2 (web only)

Published by The Scottish Government, November 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS953346 (11/21)

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