

Response ID ANON-TW3Z-CXZM-T

Submitted to **Children and Young People (Scotland) Act 2014: Guidance on Part 1 - Duties of Public Authorities in Relation to the United Nations Convention on the Rights of the Child (UNCRC), and Statutory Guidance Part 3: Children's Services Planning**
Submitted on **2016-06-13 14:52:21**

Introduction

Are you responding as an individual or an organisation?

Organisation

What is your name or your organisation's name?

Name/orgname:

Together (Scottish Alliance for Children's Rights)

What is your email address?

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The Scottish Government generally seeks to publish responses to a consultation, in summary and where possible in detail. We would like your permission to publish:

Your response along with your full name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Part 1 Guidance

1 Is there sufficient information on the UN Convention on the Rights of the Children and child rights-based approaches to support an understanding of the Part 1 (section 2) duties under the 2014 Act?

Yes

2 Is the suggested framework for reporting on children's rights helpful?

Yes

Can you suggest other information or details that would be useful?:

The suggested framework for reporting is extremely helpful and would be reinforced through consideration of the following points:

Summary: We welcome that such comprehensive guidance has been developed to support the UNCRC reporting duty on public bodies. To aid navigation through the guidance, it would be useful to start a summary of its content and key points raised. This would allow officials to gain a robust overview of the reporting requirements before drilling down into the detail required.

Violence Against Children (pg 21-32): The UN Committee on the Rights of the Child has introduced a new cluster area to the UNCRC - "Violence Against Children" - which includes articles 19 (freedom from violence), 24 para. 3 (abolishing traditional practices prejudicial to the health of children), 28 para. 2 (school discipline), 34 (protection from sexual exploitation), 37(a) (protection from torture and cruel, inhuman and degrading treatment) and 39 (promoting recovery of child victims). This is included in the State Party reporting guidelines from the UN Committee (see http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/58/REV.3&Lang=en) and in the 2016 Concluding Observations (see http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=987&Lang=en). As such, it should be reflected in UNCRC reporting framework within Scotland, including the Part 1 guidance and Child Rights and Wellbeing Impact Assessments.

Civil Rights and Freedoms (pg 27): The Scottish Government's draft Child Rights and Wellbeing Impact Assessment (CRWIA) (<http://www.gov.scot/Resource/0050/00500657.pdf>) notes that many of the UNCRC articles that are included in the Civil Rights and Freedoms cluster have a more general application than those relating to specific services or settings. It recommends that articles 13 (freedom of expression), 14 (freedom of thought, conscience and religion), 15 (freedom of association), 16 (right to privacy) and 17 (access to information and mass media) are considered and, where appropriate addressed, in reports from all specified authorities. The guidances should be amended slightly to stress the importance of this cluster and related articles to ensure they are given the prominence needed in the reporting framework.

Baseline information (pg 33): To ensure robust monitoring and evaluation of steps taken to progress the UNCRC, it is essential that public bodies establish an initial baseline against which progress can be assessed. A number of public bodies have stressed the need to outline a minimum dataset from which they can draw to report against. This would help to enable comparison between different Children's Rights reports whilst also ensuring public authorities have the flexibility

they need to report on their specific activities. The guidance needs to be stronger in stressing the important role that establishing baseline information will have on their ability to taking an evidence-based approach to reporting on the UNCRC. As such, analysis from Stage 3 of the draft CRWIA needs to be explicitly taken into account in the guidance. For example, the CRWIA observes that the Part 1 duty provides "an opportunity to review existing and devise new local/institutional level structures, processes and outcomes to indicate progress in realising children's rights" and could include "developing regulatory systems and inspection frameworks that measure UNCRC compliance at a service level". Importantly, it notes the structural, process and outcome indicators identified by the Office of the High Commissioner for Human Rights that form best practice in human rights reporting. It would be helpful if this information could be summarised within the Part 1 guidance to ensure Public Bodies have the information needed to establish a robust baseline with which they can take forward their Part 1 duties.

3 Does the guidance make clear what the terms "secure better" and "give further effect" mean in the context of Part 1 (section 2) of the 2014 Act?

No

What changes would you suggest?:

It would be useful to explicitly state what each of these terms mean, and how they relate to the questions outlined on pg. 23. For example, questions 1-4 relate to establishing what steps are currently taken in relation to "securing better" UNCRC rights for children. As such, these questions are about what is currently being done to fulfil children's UNCRC rights and how this could be improved. It would be helpful to show the links between these questions and the need to establish a baseline (as referred to above). Question 5 relates to establishing actions or steps that could be taken in the future to "give further effect" to the UNCRC. As such, this is more about looking ahead at what further steps could be taken to fulfil children's UNCRC rights.

4 Is the relationship between 'rights' and 'wellbeing' clear?

Yes

What changes to the guidance do you suggest?:

As Together maintained throughout the passage of the Children and Young People Act through the Scottish Parliament and subsequent consultations, there is not a natural fit between 'rights' and 'wellbeing' and both are fundamentally different concepts. Together shares the concern raised in the Scottish Government's CRWIA that alligning rights and wellbeing too closely could undermine the basic principle of a human rights framework in that rights are interdependent and indivisible and that the fulfilment of one rights often depends upon the fulfilment of others. This is illustrated in Appendix 3, taken from the Scottish Government's CRWIA model, in which the general principles of the UNCRC are mapped against the wellbeing indicators in a somewhat ad-hoc manner. From this, as an example, it could be taken that article 12 (the right to be heard) does not relate apply to children being safe, healthy, achieving, nurtured, active or included.

As this is a difficulty in the legislation rather than the guidance, Together does believe that the guidance makes the best possible attempt to make clear the relationship between 'rights' and 'wellbeing'. However, it is imperative that the Scottish Government monitors and evaluates the way in which public bodies take forward both the Part 1 and Part 3 reporting duties to ensure that this difficulty does not manifest in a piecemeal approach to reporting.

5 Is the description of the links between the duties under Part 1 (section 2) and Part 3 of the guidance clear and useful?

Yes

6 What other comments do you have on the Part 1 (section 2) guidance? Please cite specific parts of the guidance if relevant.

What other comments do you have on the Part 1 (section 2) guidance? Please cite specific parts of the guidance if relevant. :

Overall, the guidance is a little vague. For example, para. 110 which refers to publication of the Children's Rights report does not elaborate on what is "as soon as reasonably practicable". Whilst recognising the limitations of non-statutory guidance, it would be helpful to provide some insight as to what would be considered best practice, for example within 6 months of the end of the reporting period.

In relation to Scottish Government's interaction with authorities' reports (para. 122-124) , it would be helpful to highlight the duty on Scottish Ministers to report to the Scottish Parliament on steps taken to secure better or further effect of the UNCRC requirements (Children & Young People (Scotland) Act 2014, s.1, p1(4)) and the extent to which this report will be informed by the Children's Rights reports published by public authorities.

In paras. 72-74, greater links need to be made between the Part 1 reporting duties and other duties included in the Education (Scotland) Act 2016, Community Empowerment (Scotland) Act 2015, health and social care integration, and corporate parenting reports (to be produced under p.9, s.61 of the Children and Young People (Scotland) Act 2014).

It is important that guidance is clear about the impact that adult services can have on the progressing children's UNCRC rights. Children's Rights reports should give consideration, where appropriate to services provided to adults by the public authority that impact directly and indirectly on children's rights. This could include, for example, services to parents or carers (such as parenting classes), services to adults such as mental health services or drug and alcohol treatment services, or community services such as environmental health or planning.

Part 3 Guidance

1 Is the guidance sufficiently clear about the purpose and objectives of Part 3?

No

How could this be improved? :

The introduction to the guidance is clear about the purpose and objectives of Part 3. Paragraph 22 makes a welcome quote from the Christie report that 'reforms must empower individuals and communities receiving public services by involving them in the design and delivery of services they use.' We welcome that Part 3 'aims to facilitate the shift to this future state' (para. 23), the acknowledgement that 'planning alone will not, of course, bring about the transformational change

needed' and that it will require 'an investment in people and the empowerment of communities too' (para. 27).

Despite such promising statements, the guidance does not successfully set out how children and young people can be involved in the design and delivery of Children's Services Plans, nor be empowered to help bring about the transformational change needed in Children's Services across Scotland. The only reference to the participation of children and young people is vague and appears too late in the guidance of be of particular value (para. 120).

The involvement of children and young people would benefit all stages of the Children's Services Planning cycle. Within the suggested steps for Children's Services Planning (para. 42), it would be particularly beneficial to involve children and young people in mapping services. Their unique insight and experience will be of immense value and would help to ensure a robust assessment of what services may directly or indirectly impact on them. Furthermore, in the analysis of population need, steps should be taken to ensure that information gathered through the quantitative assessment of population need is used to inform active consultation with specific groups of particularly vulnerable children and young people. Their views and experience will be of great importance in planning how to address specific wellbeing needs which are not being addressed by existing services.

Underpinning the guidance with General Comment No. 12 of the UN Convention on the Rights of the Child (UNCRC) (<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>) would ensure that specific measures could be articulated to support local authorities and health boards taking forward the aims of Part 3, such as ensuring children and young people are empowered to inform the design and delivery of healthcare services, education, play, sports and cultural activities and in the development of prevention strategies.

To deliver on its aims:

- The guidance needs to be underpinned by the UNCRC with particular reference to Article 12 and General Comment No. 12.
- A Child Rights and Wellbeing Impact Assessment should be undertaken as a matter of urgency.

2 Is the guidance clear about the roles and responsibilities of different public agencies with respect to Part 3 duties?

No

2. Is the guidance clear about the roles and responsibilities of different public agencies with respect to Part 3 duties? How could this be improved?:

Please see previous answer in which we stressed the importance of different public agencies being made aware of their role and responsibilities in relation to involving and consulting with children and young people.

3 With respect to the duty on local authorities and relevant health boards to consult in preparation of a Children's Services Plan, is the guidance clear about the process which should be undertaken?

No

How could this be improved?:

As previous stated, there needs to be greater guidance on how local authorities and relevant health boards should be consulting with children and young people. Whilst there is a welcome reference to Appendix D (para. 91), this is the only time that any reference (direct or indirect) is made to involving children and young people in the process. Appendix D is extremely helpful, but its title "Involving Children and Young People in Children's Rights Reports" may lead to the impression that it is only relevant to the Part 1 duties rather than more widely to Part 3.

To address these gaps:

- More emphasis should be placed in the guidance on the need to consult with children and young people.
- Scottish Ministers should specify a duty to consult with children and young people under section 10 of Part 3.
- Appendix D should be adapted slightly to ensure its relevance to the implementation of both Parts 1 and 3 of the guidance is clear.

4 Is the guidance sufficiently clear about what "information, advice and assistance" is in the context of preparing a Children's Services Plan?

Not Answered

How could this be improved?:

5 Is the guidance sufficiently clear about what a "reasonable request" is in the context of preparing and implementing a children's services plan?

Not Answered

How could this be improved?:

6 Is the description of the links between the duties under Part 3 of the guidance and other statutory and non-statutory planning requirements clear and useful?

Is the description of the links between the duties under Part 3 of the guidance and other statutory and non-statutory planning requirements clear and useful:

Whilst the description of the links between the duties under Part 3 of the guidance and other planning requirements is relatively useful, it is not clear (para. 160-222). It would benefit from a summary of the other plans and reports (similar to Part 1 guidance para. 47) to help the reader navigate the wider framework. Greater prominence needs to be placed on the extensive links that can be made between the Part 1 and Part 3 reporting duties. These links are very clear and evident in the Part 1 guidance (paras. 65-71) but less so in the Part 3 guidance (paras. 179-183). Furthermore, the links between Parts 1 and Part 3 need to be

more evident throughout the Part 3 guidance (the only examples before para. 179 are in the preface in para. 6 and at the end of the first section at paras. 76-77). There are numerous entry points throughout the guidance which could make clearer and stronger links with aligning the reporting duties of Part 3 with Part 1, including in the introduction, throughout the Children's Services Planning cycle (para. 42), Step 1 (para. 42), timescales (para. 45), and linking SHANARRI to the UNCRC (paras. 51-53 and para. 100).

7 What other comments do you have on the Part 3 guidance? Please cite specific parts of the guidance if relevant.

What other comments do you have on the Part 3 guidance? Please cite specific parts of the guidance if relevant. :

Whilst there is some mention of the need for comprehensive baseline information (para. 99), this would benefit from being strengthened. It should be stressed that baseline information (both quantitative and qualitative) plays an essential role in ensuring that Children's Services Plans are evidence-led and developed to meet the specific needs of the local community of children and young people. The fundamental role that the views and experiences of children and young people play in establishing this baseline should also be evident throughout. This should be linked to the section on baseline information to be included in Part 1 (see our answer to Part 1, qu. 2).

We welcome the suggestion to local authorities and relevant health boards to ensure that a copy of the annual report (or summary) is made available to children and young people (para. 133). This suggestion should be broadened to include accessible child-friendly versions of the Children's Services Plan (or summary) to support children and young people's involvement of the process. Furthermore, local authorities and health boards should be encouraged to take into account the various communication needs of children and young people when producing the child-friendly versions.

Evaluation

6 Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Slightly dissatisfied

Please enter comments here.:

It would be useful to be able to download a copy of the questions beforehand, and to be able to print out copies of the response throughout completing the consultation.