



How international human rights can deliver progressive change:

***Lessons learnt from legislating in Scotland on
the UN Convention on the Rights of the Child***

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Overview

- The UNCRC and its status in Scots law
- The Children and Young People (Scotland) Act 2014
- Delivering progressive change – lessons learnt



About Together

Together is an NGO alliance of over 300 children's organisations and professionals working to promote and monitor the rights of every child in Scotland, as enshrined in the UNCRC.

- Raise awareness and understanding of children's rights
- Provide expertise and support to progress implementation of the UNCRC
- Monitor UNCRC implementation in Scotland



'If the government commits itself to a standard of human rights protection, it seems to me entirely logical that it should be held to account in the courts as to its actual compliance with that standard. This is particularly so in the case of UNCRC.'

Lord Kerr, March 2015

R (SG & Ors) v Secretary of State for Work and Pensions



'...the Committee encourages the State party to incorporate into domestic law the rights, principles and provisions of the Convention in order to ensure that all legislation complies with the convention and that the provisions and principles of the Convention are widely applied in legal and administrative proceedings.'

Committee on the Rights of the Child 2002 and 2008

2002 Concluding Observations on the UK and Northern Ireland. Para. 8—9

2008 Concluding Observations on the UK and Northern Ireland. Para. 10—11.



Children & Young People (Scotland) Act 2014

- Passed by the Scottish Parliament on 19 February 2014 and received Royal Assent on 27 March 2014.
- Ambition for Scotland to be the '*best place to grow up.*'
- Embedding children's rights across public services.



Views of children on the draft Bill

'If it's not the law then people might not give me my rights.'

Children's Parliament workshop participant

'64% young people support the incorporation into law of the UNCRC'

Scottish Youth Parliament consultation

Incorporation may not resolve rights violations, as *'people break laws anyway'*

Action for Children



Children's Rights Provisions:

- A duty on Scottish Ministers to “keep under consideration” steps to further children’s rights and “if they consider it appropriate to do so, take any of the steps identified”
- A duty on Scottish Ministers to promote and raise awareness of children’s rights and report on progress
- A duty on Ministers and across the public sector to report on how the UN Convention on the Rights of the Child is being furthered **but stopping considerably short of full incorporation**
- New powers for Scotland’s Commissioner for Children and Young People to conduct investigations on behalf of individual children



Part 1 of the Act: *Rights of Children*

Duty on Scottish Ministers to further the UNCRC

- *...“keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements”.*
- Report to the Scottish Parliament every three years.
- Child Rights Impact Assessment model.



Part 1 of the Act: *Rights of Children*

Awareness-raising duty on Scottish Ministers

- *... "promote public awareness and understanding (including appropriate awareness and understanding among children) of the rights of children".*
- Article 42 of the UNCRC into Scots law.
- Awareness-raising and competence-building measures, such as ongoing, high-quality training and development programmes.



Part 1 of the Act: *Rights of Children*

Duty on Scottish Ministers – the views of children

- *“In complying with their duty under subsection (1)(a), the Scottish Ministers must take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware.”*
- Article 12 of the UNCRC.



Part 1 of the Act: *Rights of Children*

Duty on Public Bodies

- Public bodies must report every three years on *"what steps it has taken in that period to secure better or further effect within its areas of responsibility of the UNCRC requirements."*
- Opportunity for public bodies to integrate children's rights into the very core of their values and services.



Part 2 of the Act:

Commissioner for Children and Young People in Scotland

- Currently no meaningful mechanism for children and young people to seek redress for violations of their UNCRC rights in Scotland.
- Act allows the Commissioner to investigate cases affecting individual children and young people for the first time.
- Commissioner will then be able to make recommendations about what should be done to make things better.



Website: www.togetherscotland.org.uk
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