

Participation Form
Scotland's National Action Plan for Human Rights

Views are sought from all individuals and organisations who have experience or expertise that can help to shape Scotland's National Action Plan for Human Rights.

The Scottish Human Rights Commission will be collecting and analysing all responses received before the 29 March 2013. Early responses are appreciated.

Unless respondents request that their views remain confidential or anonymous all responses will appear online with the name of the organisation or individual. Contact details will not appear online.

- ☐ Please tick this box if you do not wish your response to appear online.
- ☐ Please tick this box if you are happy for your response to appear online but not your name or the name of your organisation.
- ☐ Please tick this box if you would prefer we did not link to your website.

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You can also fill out this form online at www.scottishhumanrights.com/actionplan

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Together (formerly known as the Scottish Alliance for Children's Rights) was set up in 1996 to seek the full implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. It began as a small, informal network drawn from Scottish children's organisations and has grown to have over 200 members and registered supporters, providing a focal point for non-governmental organisations in Scotland on children's rights issues. In consultation with our members, Together prepares NGO alternative reports to the UN Committee on the Rights of the Child on Scottish and UK government progress in implementing in the UNCRC. Together produces an annual *State of Children's Rights* report to provide a non-governmental perspective on the progress made in Scotland towards implementing the UNCRC.

This response specifically looks at consistent violations of children's rights in Scotland, drawing evidence from Together's annual *State of Children's Rights* reports from 2010-12. The following 98 NGO members and supporters contributed to these *State of Children's Rights* reports:

Aberdeen Council of Voluntary Organisations	Kidz Stop Nursery and Out of School Clubs
Action for Children	Legal Services Agency
Action for Sick Children (Scotland)	LGBT Youth Scotland
Amnesty International	Lochmaben Playcare
Angus Women's Aid	Loreburn Housing Support Service
Article 12 in Scotland	Moffat Childcare
Barnardo's Scotland	Moray Carers Project
BEMIS	National Autistic Society Scotland
British Red Cross	National Deaf Children's Society (NDCS) Scotland
Buddies Club Playscheme Glasgow West	North West Carers Centre
Caledonia Youth	NSPCC
Care and Learning Alliance	Partners in Advocacy
CELCIS	PEACE Childcare
Child Poverty Action Group in Scotland	Play Scotland
ChildLine	Primary PlayCare Ltd
CHILDREN 1 ST	Quarriers
Children Are Unbeatable	Rathbone
Children in Scotland	respectme, Scotland's Anti-Bullying Service
Children's Parliament	SASW
cl@n childlaw	Save the Children UK
Connecting Young Carers HCCF	Schools Out Shotts After School Club
Contact a Family Scotland	Scottish Network of Alcohol Practitioners for the Young (SNAPY)
Corner Young People's Health and Information Service	Scottish Out of School Care Network
Drumchapel Children's Rights Project	Scottish Refugee Council
Dyslexia Ayrshire	Scottish Women's Aid
East Pollokshields Out Of School Care	Scottish Youth Parliament
ENABLE Scotland	Shakti Women's Aid

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Engender
Families Outside
Freedom from Torture Scotland (Medical Foundation)
fSDC liaison project
Geeza Break
Glasgow Association for Mental Health
Glasgow South West Carers Centre
Grampian Society for the Blind
Headway (Dumfries & Galloway) Association Ltd
Highland Children's Forum
Includem
Inclusion Scotland
International Play Association
IPA Scotland
Jordanhill Out of School Service
Keys to Inclusion

Shelter Scotland
Skye & Lochalsh Community Care Forum - Young Carers Service
Stonewall Scotland
The Bridge Dumfries & Galloway (DG Play)
The Corner
The Kidz Stop Nurseries and Out of School Club
The Place 2B
The Princess Royal Trust for Carers in Scotland
UNICEF UK
Waverley Care
West Lothian Young Carers Partnership
Who Cares? Scotland
With Kids
Youth Borders
YouthLink Scotland

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1. Based on the evidence presented in the report *Getting it right? Human rights in Scotland*, or your own experience, what do you consider to be the most urgent human rights issues which should be addressed in Scotland's National Action Plan for Human Rights?

Together considers the following issues as being the most urgent human rights issues that should be addressed in Scotland's National Action Plan:

Human Rights Context:

Legal context	1.1.	Incorporate the UNCRC into Scots law
	1.2.	Ratify the Optional Protocol on the UNCRC complaints mechanism
Social context	1.3.	Set a pathway to tackle child poverty
Political context	1.4.	Ensure child rights impact assessments are a statutory requirement in all policy-making

Dignity and care:

Dignity and care	2.1.	Provide training of professionals in line with the Common Core of Skills
Self determination	2.2.	Improve children's participation in decision-making and the provision of advocacy

Health:

People with disabilities	3.1.	Promote the inclusion of children with disabilities
Mental health	3.2.	Underpin the Mental Health Strategy with the UNCRC

Education and work

Socio-economic status	4.1.	Reduce the effects of the social background of children on their achievement at school
Inclusive education	4.2.	Provide sufficient resources and support to children with additional support needs
	4.3.	Use General Comment on Article 31 to strengthen the right to leisure, play & culture

Private and family life

	5.1.	Improve outcomes for looked after children
Domestic abuse	5.2.	Embed the National Domestic Abuse Delivery Plan into core Scottish Government work
Parental imprisonment	5.3.	Secure the rights of children of prisoners

Safety and security

Asylum	6.1.	Improve support for asylum seeking children
Abuse	6.2.	Give children equal protection from violence in law
Trafficking	6.3.	Child trafficking

Access to justice and the right to remedy

Age of criminal responsibility	7.1.	Raise the age of criminal responsibility
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These violations of children's rights have been repeatedly identified by Together's members and raised in a number of *State of Children's Rights* reports between 2010-12.

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1. Human Rights Context:

1.1. Incorporate the UNCRC into Scots Law

In Together's 2012 *State of Children's Rights* reportⁱ, a recommendation was given to the Scottish Government to aim for full incorporation of the UNCRC by the UK's next reporting round to the UN Committee on the Rights of the Child. This recommendation appeared in Together's *State of Children's Rights* reports in 2010ⁱⁱ and 2011ⁱⁱⁱ, and was submitted to the UK Government during the previous three UN Committee on the Rights of the Child Concluding Observations; most recently in 2008^{iv}. The UN Committee favours direct and full incorporation as a method of implementation, thus giving full legal effect to the binding commitments made by Governments when ratifying the UNCRC.

During recent consultation of the Children and Young People (Scotland) Bill, there have been positive policy proposals around furthering the implementation of the UNCRC in Scotland, including a proposed duty on Ministers to take '*appropriate steps to further the rights of children and young people.*' In the *Getting it Right? Human Rights in Scotland* report, the Scottish Human Rights Commission (SHRC) refers back to a previous proposal from the Scottish Government to place a duty on Scottish Ministers to pay '*due regard*' to the UNCRC in all of their functions. This proposal has now been replaced by the proposals included in the Children and Young People Bill. However, the SHRC states that even this previously stronger proposed duty on Ministers was still '*not an alternative to incorporation.*'^v

A UNICEF UK report was launched in January 2013 and looks at the implementation of the UNCRC in 12 countries beyond the UK. It concludes that the process of incorporation raises awareness of children's rights in Government and civil society; increases the likeliness of children to be perceived as rights holders and generates a culture of respect for children's rights. The main value of UNCRC incorporation was seen to be '*the strong message it conveyed about the status of children and children's rights, and the knock-on effects for implementation of children's rights principles into domestic law and policy.*'^{vi}

At the 2012 UK Universal Periodic Review (UPR) reporting round, Slovakia recommended that the UK incorporate fully, as a matter of urgency, the UNCRC into domestic law.^{vii}

1.2. Ratify the Optional Protocol on the UNCRC Complaints mechanism

The third Optional Protocol (OP) of the UNCRC is a communications procedure to allow individual children to submit complaints regarding specific violations of their rights. It opened for signature on 28th February 2012 and thus far, 35 states have signed and a further two have ratified the OP. At the 2012 UPR reporting round, Slovakia urged the UK to ratify the third OP; a recommendation that was also made in Together's 2012 *State of Children's Rights* report.^{viii}

1.3. Set a pathway to tackle child poverty

The UN Committee's Concluding Observations to the UK in 2008 recommended that, in line with Article 4 of the UNCRC, the UK should allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and reducing inequalities across all jurisdictions.

Despite this recommendation, children's organisations felt that the UK Government's *Child Poverty Strategy*, published in April

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2011, failed to set out a clear pathway towards reaching the 2020 target. This concern was highlighted in the UK's UPR round in 2012, where Norway urged the UK to set out a clear pathway to meet the goal of ending child poverty in the UK by 2020.^{ix} SHRC sees this as an indication of the UK's failure thus far to tackle child poverty.^x

The Scottish Government *Child Poverty Strategy* lacks targets or actions that will be taken to achieve the outcomes, and it is not clear what indicators are used to monitor progress against these outcomes. Commenting on behalf of Scottish children's organisations, Together highlighted that the 2012 *Child Poverty Strategy* progress report presented by the Scottish Parliament lacked information on progress against outcomes at national level and failed to provide a comprehensive overview of progress. It is therefore left unclear how the measures in the *Child Poverty Strategy* are actually delivering direct action to tackle child poverty in Scotland.

The 2012 *State of Children's Rights* report^{xi} recommended that a robust process for driving and monitoring progress at local and national level against key outcomes and measures must be put in place (as also recommended in the 2011 *State of Children's Rights* report)^{xii}. This would fulfill the recommendation given by the UN Concluding Observations in 2008 for the UK to adequately implement the Scottish Government *Child Poverty Strategy* by establishing measurable indicators.

1.4. Ensure child rights impact assessments are a statutory requirement in all policy-making

Together has consistently urged the Scottish Government to make a Child's Rights Impact Assessment (CRIA) a statutory requirement to ensure that children's rights are integral in all policy-making at local and national level. CRIAs provide a valuable tool for looking at legislation and identifying and measuring its effect on children and young people and permit impacts to be predicted, monitored and, if necessary, avoided or mitigated. During recent consultation for the Children and Young People Bill in Scotland, Together reaffirmed the need for CRIAs to be used across national and local government in order for policy-making to be meaningful.

The UN Committee's Concluding Observations (2008) emphasise that the UK must conduct regular child rights impact assessments, with reference to the evaluation and monitoring of budgeting; the realisation of policy developments and the implementation of legislation.^{xiii} The SHRC promotes the use of human rights impact assessments and particularly with regards to health inequalities and the NHS. Working in partnership with the European Human Rights Commission (EHRC), the SHRC are developing an Equality and Human Rights Impact Assessment to support the integration of human rights into decision making, monitoring and accountability. This model should specifically include children's rights to ensure children's rights are integral in all policy making.

2. Dignity and care

2.1. Provide training of professionals in line with the Common Core of Skills, Knowledge and Understanding

The UN Committee's Concluding Observations (2008) state that the UK must 'reinforce adequate and systematic staff training about the UNCRC for all professional groups working for and with children'.^{xiv} Together has continually advised the Scottish Government that child rights training must be provided by all organisations working with and for children. Together further recommend that child rights training should fall in line with the Common Core in its 2012 *State of Children's Rights* report.^{xv}

The SHRC *Getting it Right? Human Rights in Scotland* report recognises the need for human rights-based training approaches to

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training, yet there is no recognition that this approach should be extended to children's rights.^{xvi} Any human rights based training must be underpinned by the UNCRC and use the Scottish Government's Common Core of Skills, Knowledge, Understanding and Values to ensure a broad understanding of children's rights.

2.2. Improve children's participation in decision-making and provision of advocacy

The Scottish Government's *Do the Right Thing UNCRC progress report*^{xvii} refers to legislative examples where children and young people are playing an active part in decisions affecting them, showing a general acknowledgement of the importance of the principle of participation and of article 12 across policy and some areas of practice. The recognition of a cultural change necessary to promote full participation in less formal settings is absent in the report.

With regards to participation relating to advocacy, Together has recommended that the Scottish Government should ensure that principles and standards for advocacy are put in place in a way that ensures that children and young people are able to enjoy their right to be heard. It should take account of the UNCRC General Comment 12:

"The right to be heard applies both to proceedings which are initiated by the child, such as complaints against ill-treatment and appeals against school exclusion, as well as to those initiated by others which affect the child, such as parental separation or adoption. States parties are encouraged to introduce legislative measures requiring decision makers in judicial or administrative proceedings to explain the extent of the consideration given to the views of the child and the consequences for the child."^{xviii}

3. Health

3.1. Promote the inclusion of children with disabilities

The UN Committee's Concluding Observations (2008) urged the development of a comprehensive national strategy for the inclusion of children with disability, and action to raise awareness of their rights and special needs to prevent discrimination and institutionalisation. They also urged that programmes and services for children with disabilities must be effectively implemented.^{xix} A national strategy for children with disabilities has not been realised to date. The *National Review of Services for Disabled Children and Young People* action plan was referred to in the Scottish Government's recent *Do the Right Thing* progress report.^{xx} Despite welcoming the action plan, Together has found that progress has been slow and that improvement is necessary in areas including GIRFEC practice briefings, staff training, children's service plans and engagement and participation of disabled children and young people. Together gave recommendations in the 2012 *State of Children's Rights report*^{xxi} in all of these areas (as similarly echoed in Together's *State of Children's Rights reports* in 2010 and 2011).

SHRC's report *Getting it Right? Human Rights in Scotland* recognises that children with disabilities do not fully enjoy their right to education. It is also made clear that as cuts in disability premiums and cuts in benefits continue, this will have a profound effect on families with a disabled child (also highlighted in Together's 2012 *State of Children's Rights report*).^{xxii} There is mention of the *UN Convention on the Rights of Persons with Disabilities* (UNCRPD) and in particular with regards to people exercising their rights in care. The report includes information that work is being done to identify the gaps for the rights of older people: this should be extended to include children and young people.

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3.2. Underpin the Mental Health Strategy with the UNCRC

The UN Committee's Concluding Observations (2008) state that additional resources and improved capacities be employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk (including children of deprived care, children affected by conflict, those living in poverty and those in conflict with the law).^{xxiii} Mental health was rarely referred to in the *Do the Right Thing* progress report, which reinforced the lack of joined-up thinking with child rights and mental health. The need to give particular attention to mental health services for vulnerable groups such as asylum-seeking children, children of prisoners and children from ethnic minority communities was a recommendation made to the Scottish Government in *Together's State of Children's Rights report* in 2011.^{xxiv}

Scotland's *Mental Health Strategy* was released in summer 2012. The SHRC's *Getting it Right? An Overview of Human Rights* report notes that the *Mental Health Strategy* contains a number of commitments, including that the Government will:

"work with the Scottish Human Rights Commission and the Mental Welfare Commission to develop and increase the focus on rights as a key component of mental health care in Scotland."^{xxv}

In *Together's 2012 State of Children's Rights report* a recommendation was made to ensure that the *Mental Health Strategy* is underpinned by the UNCRC and promotes sufficient preventative measures to stop more serious mental health problems developing later in life.^{xxvi xxvii} Framing the strategy alongside others including the *National Parenting Strategy* and the forthcoming *Children and Young People's Bill* will help to recognise the impact of parental mental health on children.

Scotland had a target to ensure access to specialist Child and Adolescent Mental Health Services within 26 week by March 2013, yet there are concerns that long waiting lists remain for children in need of support.^{xxviii} What's more, the Scottish Association for Mental Health (SAMH) has raised concern at reported increases in the numbers of young people admitted to adult psychiatric wards in some areas.^{xxix}

4. Education and work

4.1. Reduce the effects of the social background of children on their achievement at school

Together has welcomed the positive steps associated with the Curriculum for Excellence with regards to children being able to exercise their rights, encouraging child-centred learning and individual participation. Yet there is still a gap between policy and practice, with participation often tokenistic and non-inclusive. This was highlighted in the UN Committee's Concluding Observations (2008) which urged the UK to strengthen children's participation in all matters of school, classroom and learning which affect them.^{xxx}

The UN Committee has recognised the efforts in Scotland to ensure the right to education for all children, yet express concern that such effort must be strengthened to reduce the effects of the social background of children on their achievement in school.^{xxxi} By the time pupils leave school, the attainment of those pupils from the richest areas in Scotland is 137 per cent higher than those from the most deprived areas. Those from the most deprived areas achieved attainment levels 65 per cent below the national average.^{xxxii}

In its 2012 *State of Children's Rights report* Together recommended that the Scottish Government used current policy reform to

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support parents in deprived areas to engage in their children's education and to provide affordable, high quality and extensive early education and care provisions for all children in poverty from a young age.^{xxxiii}

4.2. Provide sufficient resources and support to children with additional support needs

As stated in the Scottish Government's *Do the Right Thing* progress report, the Scottish Government published a report to the Scottish Parliament on the implementation of the Additional Support for Learning legislation in early 2012.^{xxxiv} The report revealed that not enough was being done to support children and young people with 'hidden' additional support needs, as well as a lack of shared practice in the identification of, and provision for additional support needs. In the SHRC mapping exercise '*Getting it Right? Human Rights in Scotland*', gaps in additional support for learning legislation are highlighted. These include:

- the omission of duty to be placed on schools to know which children are disabled if they do not face barriers in addition to their impairment in the Education (Additional Support for Learning) (Scotland) Act 2004.
- the Co-ordinated Support Plan and its ability to neglect children who face severe disability barriers but from only one type of service. If a child or young person does not qualify, the Individualised Educational Programme is offered; however due to a lack of statutory status it cannot guarantee additional support to ensure that education is accessible for all.^{xxxv}

During the 2012 UK UPR reporting round, Costa Rica advised the UK to adopt a strategy so that children of vulnerable groups are not excluded from the education system.^{xxxvi} This includes children and young people and the inclusive access to additional support for learning.

Representing the experience of children's organisations, in its 2012 *State of Children's Rights report* Together recommended that the Scottish Government addresses the need for specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals, and to include an extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice.

4.3. Use the UN General Comment on Article 31 to strengthen the right of the child to leisure, play & culture

The UN Committee's Concluding Observations (2008) recommended that efforts must be strengthened to guarantee 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. The UN Committee also focused particular attention on children with disabilities whilst recommending that the UK should provide adequate and accessible playground spaces.

The Scottish Government's *Do the Right Thing* progress report refers to *PlayTalkRead* and the *Go Play* funds, which have been welcomed by the children's sector. However, as stated in Together's 2012 *State of Children's Rights* report, the lack of longer-term funding commitments present a concern that a universal play service may be unattainable in the future and that services will lose skilled play professionals.^{xxxvii} The SHRC's *Getting it Right? Human Rights in Scotland* report recognises the lack of access to outdoor play for children in care^{xxxviii}, yet there is a noticeable lack of information relating to Article 31 of the UNCRC.

In March 2013, the UN Committee on the Rights of the Child published a General Comment on Article 31. Guidance from the General Comment should be used by the Scottish Government to fulfill the concluding observation given to the UK by the UN

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Committee in 2008.

5. Private and family life

5.1. *Improve outcomes for looked after children*

Getting it Right? Human Rights in Scotland recognises the needs of looked after children in areas including 'life after care' services and semi-independent living units, with reference to SCCYP's call for changes to prevent councils placing young people in homeless hostels and B&B establishments.^{xxxix} It also highlights concerns regarding poor educational outcomes, low income and employment rates, and poor health and early pregnancy of looked after children.^{xl}

The *Do the Right Thing* progress report outlines a number of steps taken by the Scottish Government in this area, including challenging stigma and reducing discrimination and improving support for care leavers.^{xli} Despite this evident commitment, there is still a long way to go.

Together's *State of Children's Rights* reports have repeatedly raised issues regarding looked after children. Amongst these have been:

- the need for ongoing monitoring and evaluation of policies affecting looked after children;
- ensuring that there is a clear pathway underpinned by children's rights that illustrates how these policies produce tangible outcomes for looked after children.

5.2. *Embed the National Domestic Abuse Delivery Plan for Children into core Scottish Government work*

The UN Committee's Concluding Observations (2008) advised the UK to establish mechanisms for monitoring the number of domestic abuse cases and the details of these cases in the family/school/institutional or other care; ensure that professionals working with children receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children, and to provide adequate services for recovery, counselling and reintegration.^{xlii}

Getting it Right? Human Rights in Scotland raised questions about the definition of domestic abuse in law, as well as the adequacy of policy attention to perpetrators and specific groups of victims/survivors including minority ethnic women, transgender people and men. Furthermore, victims/survivors of domestic abuse discuss a range of problems in accessing accommodation and avoiding homelessness, including extended time periods in refuges waiting for accommodation.^{xliii}

Although SHRC found that policy attention has increasingly addressed the impact of domestic abuse on children, there are continuing problems in access to support services for children. In its *State of Children's Rights reports* (2011 and 2012), Together recommended that the priorities of the three-year *National Domestic Abuse Delivery Plan for Children and Young People* (which was produced in 2008 by the Scottish Government and COSLA) should be embedded into the core work of the Scottish Government, with adequate funding and resources.

5.3. *Secure the rights of children of prisoners*

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The UN Committee's Concluding Observations (2008) urged the UK to ensure support to children with one or both parents in prison; to maintain contact (unless contrary to their best interests) and to prevent their stigmatisation.^{xliv} Two recommendations were also given to the UK in its UPR round in 2012 to highlight similar concerns: Slovakia urged that the best interests of the child be taken into account when arresting, detaining, sentencing or considering early release for a sole or primary carer of the child, whilst recognising that visits to a parent in prison are primarily a right of the child rather than a privilege of the prisoner. Germany furthered this recommendation by urging the UK to take steps to improve support for children with imprisoned parents.^{xlv}

As recognised in the SHRC *Getting it Right? Human Rights in Scotland* report, Article 9 of the UNCRC protects the right to the child not to be separated from his or her parents except by competent authorities subject to judicial review. Paragraph 4 of Article 9 further acknowledges that such separation may arise from the detention or imprisonment of one or both parents.^{xlvi}

Within the 2012 *State of Children's Rights report*^{xlvii} Together recommended that the Scottish Government:

- increase efforts to work with SCCYP to further their recommendations from the 2008 and 2011 reports 'Not Seen, Not Heard, Not Guilty';^{xlviii}
- ensure that direct support is provided for children of prisoners at school, including improving engagement from schools with parents in prison;
- raise awareness throughout the statutory and voluntary sector of the impact of imprisonment on children and their roles and responsibility for addressing this, including amongst adult-focused services;
- recognise quality contact with parents in prison as a child's right rather than as a tool for prison discipline.
- Child & Family Impact Assessments should be conducted and acted upon throughout the criminal justice process, starting with arrest and continuing through the release of a prisoner (including impact assessments for non-custodial penalties);
- The Scottish Prison Service should establish good quality, independently staffed prison visitors' centres at every prison in Scotland to support children and families of prisoners.

6. Safety and security

6.1. Improve support for refugee and asylum seeking children

The issue of asylum, for the most part, is reserved to Westminster. However, SHRC's *Getting it Right? Human Rights in Scotland report* recognises that the implementation of asylum seeker/refugee policy and matters such as education, health and child protection, housing and provision of services, all contribute to the successful integration of asylum seekers and refugees living in Scotland. It includes recently published research stating that the cut by UKBA in asylum support and resources for support services has left many stuck in destitution but unable to return to their home country^{xlix} and highlights the difficulties faced by unaccompanied asylum-seeking children in Scotland.

In its 2012 *State of Children's Rights report* Together commended the guidance on age assessment introduced by the Scottish Refugee Council and has welcomed the partnership work that has taken place with UKBA, the Scottish Government and COSLA.

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Together advised that the Scottish Government should continue to support the roll-out of the new guidance on age assessment alongside monitoring and evaluation of its use. This work should be included within SNAP.

6.2. Give children equal protection from violence in law

The UK is coming under increasing international criticism for its failure to give children equal protection. It is one of only four European Union countries not to have committed to introduce a ban to prohibit corporal punishment. The UK is violating UN and EU treaties by not abolishing corporal punishment: law reform is now seen as an obligation under international law by both European and United Nations human rights monitoring bodies. However, the issue has not been recognised in the SHRC's *Getting it Right? Human Rights in Scotland* report.

During the UK UPR reporting round in 2012, Norway, Finland and Sweden advised the UK to reconsider its position with regards to the continued legality of corporal punishment of children, and to take measures to ensure the freedom of children from violent behaviour.ⁱ This echoes the UN Concluding Observation (2008) which stresses that the UK must prohibit, as a matter of priority, all corporal punishment in the family, including through the repeal of all legal defences.ⁱⁱ

In its 2012 *State of Children's Rights report*, Together recommended that the Scottish Government should accept these recommendations and give children equal protection from assault in law.

6.3. Combat child trafficking

In 2011 the UK Government adopted its Human Trafficking Strategy.ⁱⁱⁱ The UK Children's Commissioners have criticised the fact that this is the first UK Government anti-trafficking strategy that only covers England and Wales.ⁱⁱⁱⁱ Scotland is not part of the UK strategy and the Scottish Government has not responded to calls for a Scottish anti-trafficking strategy or action plan. This could leave gaps in the implementation of a number of the UK's international obligations.^{liv} There have been three key Scottish-wide reports on human trafficking (including child trafficking) in the last two years.^{lv} All call for the Scottish Government to take a strategic lead in tackling this hidden crime and to look at all aspects, from identification to protection to prosecution. Children's organisations are concerned that there has continued to be no prosecutions on child trafficking grounds in Scotland in 2011 and 2012. The capacity of professionals to initially identify possible victims of trafficking is seen to be an unaddressed problem. It is urgent, because failure to identify the victims results in their continued exploitation.

7. Access to justice and the right to an effective remedy

7.1. Raise the age of criminal responsibility

As reported in the 2011 *State of Children's Rights report*,^{lvi} the age of criminal responsibility in Scotland currently remains one of the lowest in Europe. This issue has been repeatedly raised by Together. In the *Do the Right Thing* progress report, the Scottish Government has committed to give 'fresh consideration to raising the age of criminal responsibility from 8 to 12'.^{lvii} This addresses the 2008 UN Committee's Concluding Observation (2008) that the UK should raise the minimum age of criminal responsibility in accordance with the Committee's General Comment no. 10.^{lviii} It would also address the recommendations made in the 2012 UK UPR round, where both Belarus and Chile stressed that the age of criminal responsibility should be raised.^{lix} This has

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been raised in the SHRC's *Getting it Right? Human Rights in Scotland* report and should be included in the SNAP as a matter of priority.

2. What specific and achievable actions do you consider would best address the concerns you identify in your response to question 1?

<u>Getting It Right Thematic Area</u>	<u>Together's priority issue (as per question 1)</u>	<u>Suggested action for SNAP</u>
<u>Human Rights Context:</u>		
Legal context	1.1. <i>Incorporate the UNCRC into Scots law</i>	Outline a roadmap towards the full incorporation of the UNCRC into Scots law. Ensure the UNCRC is enshrined in any future Scottish constitution.
	1.2. <i>Ratify the Optional Protocol on the UNCRC complaints mechanism</i>	Outline the Scottish Government's commitment to take forward its support for signing the Optional Protocol, including a roadmap indicating the timescale and process involved with regards to ratification.
Social context	1.3. <i>Set a pathway to tackle child poverty</i>	Identify measures to be put in place by the Scottish Government to monitor and evaluate the Child Poverty Strategy at a local and national level.
Political context	1.4. <i>Ensure child rights impact assessments are a statutory requirement in all policy-making</i>	Outline a process whereby the use of CRIAs can be developed and implemented within Human Rights Impact Assessments.
<u>Dignity and care:</u>		
Dignity and care	2.1. <i>Provide training of professionals in line with the Common Core of Skills</i>	Outline a comprehensive strategy through which the Scottish Government can take forward its commitment to promote and raise awareness of the UNCRC among professionals. This should include ensuring that all organisations working with and for children provide child rights training in line with the Common Core's skills, knowledge, values and understanding.
Self determination	2.2. <i>Improve children's participation</i>	Outline a strategy through which all levels of Government will listen to the views of children and young people in policy-

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	<i>in decision-making and the provision of advocacy</i>	making and services. Specifically relating to access to advocacy, the Scottish Government should take forward and implement actions resulting from the consultation on ' <i>Improving Advocacy Support for Children and Young People: principles and minimum standards</i> ' in order to ensure that children and young people have access to high quality advocacy when they need it.
<u>Health:</u>		
People with disabilities	3.1. <i>Promote the inclusion of children with disabilities</i>	Outline a timescale in which the Scottish Government introduces mandatory training on basic behaviour strategies, autism/learning, disability awareness and communications strategies for all staff involved in the education of children with a disability.
Mental health	3.2. <i>Underpin the Mental Health Strategy with the UNCRC</i>	Outline a pathway through which all stakeholders working on the Mental Health Strategy develop and increase the focus on children's rights as a key component of health care in Scotland, taking into account those affected both directly and indirectly by mental health issues.
<u>Education and work</u>		
Socio-economic status	4.1. <i>Reduce the effects of the social background of children on their achievement at school</i>	Outline a pathway towards providing affordable, high quality and extensive early education and care provision in both mainstream and additional support for learning schools for all children in poverty from an early age.
Inclusive education	4.2. <i>Provide sufficient resources and support to children with additional support needs</i>	<p>Outline a long-term plan to support the implementation of the Additional Support for Learning legislation that includes:</p> <ul style="list-style-type: none"> • specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals • extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice. <p>Local authorities should ensure that all looked after children are considered for a CSP and that significantly more are given a CSP to support their learning.</p>
	4.3. <i>Use General Comment on Article 31 to strengthen the right to rest, leisure and play</i>	Scottish Government should draw from the General Comment on article 31 and raise wider awareness of its implications across public bodies to ensure vulnerable children and young people are included in recreation, leisure, play and culture

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		strategies.
<u>Private and family life</u>	5.1. <i>Improve outcomes for looked after children</i>	<p>Actions relating to looked after children and young people in SNAP should:</p> <ul style="list-style-type: none"> • Be underpinned by a children's rights framework and show how they will produce tangible outcomes; • Encourage collective responsibility for looked after children; • Closely monitor and evaluate the effectiveness of corporate parenting strategies.
Domestic abuse	5.2. <i>Embed the National Domestic Abuse Delivery Plan into core Scottish Government work</i>	All SNAP actions relating to domestic abuse should take into account its impact on children and young people.
Parental imprisonment	5.3. <i>Secure the rights of children of prisoners</i>	SNAP should bring together duty bearers to further the recommendations from SCCYP's 2008 and 2011 reports 'Not Seen, Not Heard, Not Guilty.'
<u>Safety and security</u>		
Asylum	6.1. <i>Improve support for asylum seeking children</i>	Guidance on age assessment introduced by the Scottish Refugee Council should be adequately funded and resourced.
Abuse	6.2. <i>Give children equal protection from violence in law</i>	Outline a timescale in which the Scottish Government gives children equal protection from assault in law and to commit to providing information and support to parents and organisations providing support to families.
Trafficking	6.3. <i>Combat child trafficking</i>	<p>SNAP should ensure that the Scottish Government commits to a number of steps to combat child trafficking, including:</p> <ul style="list-style-type: none"> • Actively look for trends and learning in the Scottish Guardianship Service and Legal Services Agency project and utilise this to create better identification and protection systems for trafficked children • Keep abreast of discussions held at the Cross Party Group and consider the group as a useful vehicle to push forward many of the unresolved and complicated issues • Update Scottish Government guidance 'Safeguarding Children in Scotland who may have been Trafficked'^{ix} • Take the lead to ensure Scotland will be in compliance with the provisions of the EU Directive.

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Access to justice and the right to remedy		
Age of criminal responsibility	7.1. <i>Raise the age of criminal responsibility</i>	Outline a timescale in which the Scottish Government agrees to raise the age of criminal responsibility, in line with the UN Committee's General Comment No. 10

ⁱ <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

ⁱⁱ http://togetherscotland.org.uk/pdfs/Together_Report2010_online.pdf

ⁱⁱⁱ http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf

^{iv} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No's 11, 12.

^v Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.

^{vi} UNICEF UK (2012). *'The United Nations Convention on the Rights of the Child: a study of legal implementation in 12 countries.'* Queens University, Belfast.

^{vii} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.

^{viii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{ix} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.

^x Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.

^{xi} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xii} http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf

^{xiii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 19.

^{xiv} (Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/14). No. 21.

^{xv} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xvi} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.

^{xvii} Scottish Government (2012). *Do the Right Thing Progress Report 2012*

^{xviii} Paragraphs 33, UNCRC General Comment number 1

^{xix} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 53, a,c,d,e

^{xx} Scottish Government (2012). *Do the Right Thing Progress Report 2012*

^{xxi} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xxii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xxiii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 57

^{xxiv} http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf

^{xxv} Scottish Government (2012). *Mental Health Strategy for Scotland. 2011-15: A consultation.*

^{xxvi} http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf

^{xxvii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xxviii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>

^{xxix} SAMH RESPONSE TO CALL FOR COMMENTS ON DRAFT UN REPORT ON DISABILITY, 2011; citing Mental Welfare Commission for Scotland, *Our Annual Report 2007-2008*.

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- ^{xxx} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 67g
- ^{xxxi} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 67g
- ^{xxxii} Scottish Government (2012). Summary Statistics for attainment, leaver destinations and school meals.
- ^{xxxiii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xxxiv} Scottish Government (2012). Supporting Children's and Young People's Learning: A report on the progress of implementation of The Education (Additional Support for Learning) (Scotland) Act 2004
- ^{xxxv} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxxvi} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{xxxvii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xxxviii} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxxix} Scotland's Commissioner for Children and Young People (2008). Sweet 16? The Age of Leaving Care in Scotland.
- ^{xl} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xli} Scottish Government (2012). *Do the Right Thing progress report*.
- ^{xlii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 51.
- ^{xliii} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xliv} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 45d.
- ^{xlv} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{xlvi} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xlvii} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xlviii} Scotland's Commissioner for Children and Young People (2011). Not seen. Not heard. Not guilty. The rights and status of the children of prisoners in Scotland.
- ^{xlix} Gillespie, M. (2012). 'Trapped: Destitution and asylum in Scotland.'
- ⁱ United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ⁱⁱ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 42a, b.
- ⁱⁱⁱ UK Government (2011). *Human Trafficking Strategy*
- ⁱⁱⁱⁱ UK Children's Commissioners (2011). *Mid-term Report to the UK State Party on the UNCRC*
- ^{liv} The Council of Europe Convention on Action Against Trafficking in Human Beings and Directive 2011/36/EU of The European Parliament
- ^{lv} Equality and Human Rights Commission (2011). *Inquiry into Human Trafficking in Scotland*; SCCYP (2011) *A safe place for child traffickers? – A scoping study into the nature and extent of child trafficking in Scotland*; Equal Opportunities Committee (2010). *Inquiry into Migration and Trafficking*.
- ^{lvi} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{lvii} Scottish Government (2012). *Do the Right Thing Progress Report 2012*
- ^{lviii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 78a-h
- ^{lix} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{lx} Scottish Government (2008). *Safeguarding Children in Scotland who may have been Trafficked*